8-3-88
Vol. 53 No. 149
Pages 29219-29322

federal register

Wednesday
August 3, 1988

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months in paper form, or $188.00 per year, or $94.00 for six months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 53, No. 149

Wednesday, August 3, 1988

Agricultural Marketing Service
RULES
Almonds grown in California, 29222

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
Tobacco, 29221

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Soil Conservation Service
NOTICES
Agency information collection activities under OMB review, 29247

Army Department
NOTICES
Environmental statements; availability, etc.:
Chemical munitions disposal facility, Tooele Army Depot, UT, 29255

Centers for Disease Control
NOTICES
Grants and cooperative agreement awards:
United States Conference of Mayors, 29278

Commerce Department
See also International Trade Administration; Minority Business Development Agency; National Bureau of Standards; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 29248
(2 documents)

Commercial Space Transportation Office
NOTICES
Orbital debris; effects on ongoing and future space activities, 29302

Commodity Credit Corporation
PROPOSED RULES
Federal claims collection; setoff and withholding policies
Correction, 29307

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 29305
(2 documents)

Customs Service
RULES
Air commerce:
Customs security areas at Airports; access, 29228

Defense Department
See also Army Department
NOTICES
Meetings:
Women in Services Advisory Committee, 29255

Drug Enforcement Administration
RULES
Schedules of controlled substances:
N,N-Dimethylamphetamine, 29232
NOTICES
Applications, hearings, determinations, etc.:
Aylor, Harry, D.D.S., 29289
Boyd Drugs, 29289
Crummie, Robert G., M.D., 29289
Jeff's Prescription Shop, 29290
Lyman, Raymond, D.M.D., 29290
Lyness, Samuel S., M.D., 29290

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation:
Consumers' Gas Co. Ltd., 29256
Portland General Electric Co., 29257
Premier Enterprises, Inc., 29257

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Environmental Protection Agency
RULES
Organization and procedures:
Review of agency actions; designation of office to receive petitions, 29320
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Indiana, 29236, 29239
(2 documents)
Pennsylvania, 29242
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Acetyl tributyl citrate, 29244
NOTICES
Agency information collection activities under OMB review, 29273, 29274
(2 documents)
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 29307

Executive Office of the President
See Presidential Documents

Export Administration
See International Trade Administration

Federal Aviation Administration
NOTICES
Exemption petitions; summary and disposition, 29303

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Kansas Gas & Electric Co. et al., 29257
Majave Cogeneration Co., L.P., et al., 29259

Natural gas certificate filings:
Questar Pipeline Co. et al., 29260
Southern Natural Gas Co. et al., 29262
United Gas Pipeline Co. et al., 29264
Natural gas companies:
Small producer certificates, applications, 29266
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 29267
Colorado Interstate Gas Co., 29267, 29268 (2 documents)
Paiute Pipeline Co., 29268
Panhandle Eastern Pipe Line Co., 29268
Ringwood Gathering Co., 29268
Tennessee Gas Pipeline Co., 29270
Texas Eastern Transmission Corp., 29269 (2 documents)
Transcontinental Gas Pipe Line Corp., 29270
Trunkline Gas Co., 29270

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
St. Joseph County, IN, 29304

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 29305

Federal Reserve System
RULES
Unfair or deceptive acts or practices (Regulation AA):
Credit practices; exemption applications—
California, 29223
Credit practices; staff guidelines update, 29225
NOTICES
Meetings; Sunshine Act, 29305
Applications, hearings, determinations, etc.:
Atlantic Bancorporation et al, 29274
Barnett Banks, Inc., et al., 29275
Constellation Bancorp, 29275
Fairfield County Bancorp, Inc., et al., 29275
First Florida Banks, Inc., 29276
General Educational Fund, Inc., et al., 29277
Otto Bremer Foundation et al., 29277

Federal Trade Commission
RULES
Prohibited trade practices:
Occidental Petroleum Corp. et al., 29226
NOTICES
Meetings; Sunshine Act, 29305
Octane posting and certification; Gilbarco, Inc.; partial exemption from rules, 29277

Food and Drug Administration
NOTICES
Biological product licenses:
Amarillo Blood Plasma, Inc., 29279
El Paseo Plasma, Inc., 29280
Committees; establishment, renewal, termination, etc.:
Allergenic Products Advisory Committee, 29280
Laser variance approvals, etc.:
Laser Media, Inc., et al., 29281

General Services Administration
RULES
Federal property management:
Supply and procurement—
Ordering items from GSA supply catalog, 29234

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 29271

Interior Department
See also Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office
NOTICES
Facilities management program, Indian Affairs Bureau; funding allocations, 29282

International Trade Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 29248

International Trade Commission
NOTICES
Import investigations:
Tropical products; economic effects on U.S. industries and consumers of tariffs elimination, 29285
Meetings; Sunshine Act, 29305 (2 documents)

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
Rail abandonments—
Rights-of-way as trails, 29245
NOTICES
Meetings; Sunshine Act, 29306
Motor carriers:
Finance applications, 29287
Railroad services abandonment:
Missouri Pacific Railroad Co., 29287

Justice Department
See also Drug Enforcement Administration; Parole Commission
NOTICES
Agency information collection activities under OMB review, 29288
Pollution control; consent judgments:
Escambia County Utilities Authority et al., 29288
Parish of St. John The Baptist et al., 29288
Whiskey Run Water Association, 29289

Land Management Bureau
NOTICES
Management framework plans, etc.:
Idaho, 29283
Meetings:
Miles City District Grazing Advisory Board, 29283
Winnemucca District Grazing Advisory Board, 29284
Realty actions; sales, leases, etc.:
Arizona; correction, 29307
California, 29284

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Alaska OCS—
Lease sale, 29284
Meetings:
Royalty Management Advisory Committee, 29284

Minority Business Development Agency
NOTICES
Business development center program applications:
North Carolina, 29249

National Bureau of Standards
NOTICES
Information processing standards, Federal:
Conformance testing policy and procedures, 29249

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 29234
NOTICES
Meetings:
North Pacific Fishery Management Council, 29255
Pacific Fishery Management Council, 29255

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Southern California Edison Co. et al., 29291
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 29292

Parole Commission
RULES
Federal prisoners; paroling and releasing, etc.:
Parole policy guidelines--
Interpretative clarifications, revisions, and additions, 29233

Presidential Documents
PROCLAMATIONS
Special observances:
Helsinki Human Rights Day (Proc. 5843), 29219

Public Health Service
See Centers for Disease Control; Food and Drug Administration

Securities and Exchange Commission
RULES
Investment companies and securities:
Defense contract procurement inquiry; disclosure obligations; interpretation, 29226
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 29293
Depository Trust Co., 29294
Applications, hearings, determinations, etc.:
Merrill Lynch California Municipal Bond Trust et al., 29294
Public utility holding company filings, 29299

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Otoucalofa Creek Watershed, MS, 29247
Polk Creek Watershed, WV, 29248

State Department
NOTICES
Foreign assistance determinations:
Mozambique, 29300
State Department Authorization Act determinations:
Displaced Tibetans; status, 29300

State Justice Institute
NOTICES
Meetings; Sunshine Act, 29306

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Initial and permanent regulatory programs:
Permits for special categories of mining; agricultural activities and farming, 29310
NOTICES
Agency information collection activities under OMB review, 29285

Transportation Department
See also Commercial Space Transportation Office; Federal Aviation Administration; Federal Highway Administration
NOTICES
Agency information collection activities under OMB review, 29300

Treasury Department
See Customs Service

Veterans Administration
NOTICES
Agency information collection activities under OMB review, 29304

Separate Parts In This Issue

Part II
Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 29310

Part III
Environmental Protection Agency, 29320

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5843 29219

7 CFR
725 29221
981 29222
Proposed Rules:
1408 29307

12 CFR
227 (2 documents) 29223, 29225

16 CFR
13 29226

17 CFR
211 29226
231 29226
241 29226
271 29226

19 CFR
113 29228
122 29228
178 29228

21 CFR
1308 29232

28 CFR
2 29233

30 CFR
Proposed Rules:
701 29310
785 29310

40 CFR
23 29320
Proposed Rules:
52 (3 documents) 29236-29242
180 29244

41 CFR
101-26 29234

49 CFR
Proposed Rules:
1152 29245

50 CFR
661 29235

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

Presidential Documents

Title 3—

The President

Proclamation 5843 of August 1, 1988

Helsinki Human Rights Day, 1988

By the President of the United States of America

A Proclamation

Thirteen years ago, 33 European states, the United States, and Canada signed the Helsinki Final Act of the Conference on Security and Cooperation in Europe. In so doing, we and the other signatories undertook a sacred commitment to the principles of freedom, self-determination, and human dignity. The Helsinki Final Act acknowledged the fundamental interrelationship of human rights, economic relations, and security considerations in the overall conduct of affairs within and among states. The Final Act recognized that there can be no true international security without respect for basic political and civil rights; that economic ties can contribute to security, but only if based upon open relations among peoples; and that security and confidence can also be improved through the free exchange of information.

That historic meeting in Helsinki has spawned a dynamic process that we in the United States regard as one of the most important developments in East-West relations in the post-World War II period. The work begun at Helsinki to eliminate the barriers that divide East and West has been carried on in three follow-up meetings during the intervening years. At present we are working with the delegations from all the signatory states in Vienna to advance our cherished objectives of freedom, openness, and security.

While progress has occurred in reducing the tensions between East and West, the Soviet Union and other states of the East have not fully lived up to the commitments undertaken at Helsinki. Respect for human rights in these countries continues to fall far short of the standards set forth in the Final Act, as well as in the document issued at the conclusion of the Madrid review conference in 1983. Freedom of movement, conscience, and religion are still shackled by unreasonable and arbitrary government controls. Individuals such as Ukrainian Helsinki monitors Ivan Kandyba and Ivan Sokulsky and Lithuanian Catholic priest Sigitas Tamkevicius, whose only "crime" was to monitor the Soviet Government's compliance with the Helsinki Final Act and speak out in behalf of political and religious freedom, remain in Soviet labor camps. The free flow of ideas and information from abroad and within Eastern Europe is still impeded.

A few short weeks ago I stood in Finlandia Hall—the historic building in which the Helsinki Final Act was signed. I reiterated the commitment of the American people to continue to work to bring down the barriers that have so cruelly divided the European continent for 4 decades. However, it bears reminding that those barriers were erected by the East, and so much of the demolition work will necessarily fall to those states. We are encouraged by recent hopeful pronouncements coming from the Soviet Union and its allies; we await further concrete progress in the treatment of all individuals in the Soviet Union and Eastern Europe and positive steps in the Vienna meeting to give those pronouncements substance.

It is appropriate that we mark this 13th anniversary of the signing of the Final Act by setting aside a special day to reflect upon and to renew our dedication to the values of human dignity and freedom embodied in that farsighted document. On this occasion, we call upon all signatories of the Final Act to

honor in full its solemn principles. Let us pledge to spare no effort in striving toward this goal.

The Congress, by Senate Joint Resolution 338, has designated August 1, 1988, as "Helsinki Human Rights Day" and has authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 1, 1988, as Helsinki Human Rights Day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of August, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-17618
Filed 8-1-88; 4:46 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Farm Marketing Quotas, Acreage Allotments, and Production Adjustment; Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR Part 725 to implement provisions of the Agricultural Reconciliation Act of 1987 ("the 1987 Act"), as included in the Omnibus Budget Reconciliation Act of 1987, with respect to: (1) The lease and transfer of tobacco marketing quotas from a farm that has suffered a loss as the result of a natural disaster condition; and (2) the periodic adjustment of yield factors for acreage and poundage quotas. This rule adopts, with minor grammatical changes, a proposed rule which was published in the **Federal Register** on May 11, 1988 (53 FR 16721).

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis Daniels, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedure established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

A proposed rule was published in the **Federal Register** at 53 FR 16721 (May 11, 1988) with respect to: (1) The lease and transfer of flue-cured tobacco poundage quota and (2) the elimination of periodic yield adjustments for preliminary acreage allotments and preliminary farm yields.

Six comments, three from farm organizations and three from farmers, were received in response to the proposed rule. Two comments from farmers agreed with the proposed rule as published. One comment, signed by 52 individual farmers, agreed with the proposed rule with no changes recommended. Three comments from farm organizations requested more specificity to determine the sufficiency of the lessor farm's planted acreage in order to ensure uniformity in application of the rule in all flue-cured tobacco producing counties.

These suggested changes have not been adopted since it has been determined that sufficient guidelines exist which will ensure the uniform application of the provisions of the proposed rule. In addition, producers who do not believe that such changes have been implemented properly may appeal the determination made pursuant to these changes in accordance with 7 CFR Part 711.

List of Subjects in 7 CFR Part 725

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements, Tobacco.

Accordingly, 7 CFR Part 725 is amended as follows:

PART 725—[AMENDED]

1. The authority citation for Part 725 continues to read:

Authority: Sec. 301, 313, 314, 314A, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 210, 215, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b–2, 1314c, 1363, 1372–75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

2. Section 725.56 is amended by revising paragraph (b) to read:

§ 725.56 Determination of preliminary farm acreage allotments.

* * * * *

(b) *Preliminary farm acreage allotment.* The preliminary farm acreage allotment shall be the same as the farm acreage allotment established for the preceding year.

3. Section 725.57 is amended by revising paragraph (a)(1) to read:

§ 725.57 Determination of preliminary farm yields.

(a) * * *

(1) *Farm having preliminary farm acreage allotment.* The preliminary farm yield established for the farm shall be the same preliminary farm yield as was in effect for the preceding year.

* * * * *

4. Section 725.72 is amended by: Revising paragraph (a); by removing paragraphs (d) (1) and (2) and redesignating paragraphs (d) (3), (4), (5), and (6) as paragraphs (d) (1), (2), (3), and (4), respectively; by revising newly redesignated paragraphs (d) (1) and (2); by revising paragraph (e)(4)(i); by removing and reserving paragraphs (f), (g), (l), (n), and (o); and by deleting the last sentence in paragraph (q) to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

(a) *General.* Effective for the 1983 and subsequent crop years a flue-cured tobacco marketing quota, including a quota which has been pooled in

accordance with the provisions of Part 719 of this chapter, may be transferred between farms by sales. A flue-cured tobacco marketing quota transfer by sale must be within the same county. Only the lessor and lessee (or any attorney, trustee, bank, or other agent who regularly represents either the lessor or lessee in business transactions unrelated to the production or marketing of tobacco) may be parties to, or involved in the arrangements for, a transfer of flue-cured tobacco marketing quota by lease. For the 1988 and subsequent crop years, a flue-cured tobacco marketing quota also may be transferred after June 30 by lease to a farm in any county within the same State when the county committee determines that:

(1) The lessor has planted at least 90 percent of the farm's effective acreage allotment, or

(2) The planted acreage is sufficient to produce and market the effective farm marketing quota under average conditions, and

(3) The farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of drought, excessive rain, hail, wind, tornado, or other natural disasters as determined by the Deputy Administrator.

* * * * *

(d) *Transfer provisions*—(1) *Lessor farm.* A transfer of quota from a farm by lease shall not be approved:

(i) *New farm.* If the farm is a new farm.

(ii) *Natural disaster.* Unless the county committee in the county in which the farm is located for administrative purposes determines that the:

(A)(*1*) Farm has planted an acreage equal to or more than 90 percent of the effective farm acreage allotment, or

(*2*) In accordance with guidelines issued by the Deputy Administrator, the planted acreage of flue-cured tobacco on the farm is sufficient to produce, under average conditions, an amount of tobacco which, when added to any carryover tobacco from the previous marketing year, would equal the farm's effective farm marketing quota;

(B) Lessor made reasonable and customary efforts to produce the effective farm marketing quota;

(C) Producers on the farm qualify for price support in accordance with the provisions of Part 1464 of this title; and

(D) Farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a drought, excessive rain, hail, wind, tornado, or other natural disaster as determined by the Deputy Administrator.

(iii) *Claim for tobacco marketing quota penalty.* If a claim has been filed against the lessor for a tobacco marketing quota penalty and the claim remains unpaid unless the claim is paid or the entire proceeds of the lease of the allotment and quota are applied against the claim and the county committee determines that the amount paid for the lease represents a reasonable price for the pounds of quota being leased.

(2) *Lessee farm.* A transfer of quota to a farm by lease shall not be approved:

(i) *Price support eligibility.* Unless the producers on the farm qualify for price support under the provisions of Part 1464 of this title; and

(ii) *Limitation.* If the pounds of quota to be transferred to the lessee farm exceed the difference obtained by subtracting the effective farm marketing quota (before the filing of the transfer agreement) for the lessee farm from the total pounds of tobacco marketed and/or available for marketing (based on estimated pounds of tobacco on hand and/or in the process of being produced) from the farm in the current year.

* * * * *

(e) * * *

(4) * * *

(i) *Lease.* November 15.

* * * * *

Signed in Washington, DC on July 29, 1988.

Earle J. Bedenbaugh,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-17496 Filed 8-2-88; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 981

[FV-88-116]

Handling of Almonds Grown in California; Extension of Date for Satisfying Inedible Disposition Obligation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action temporarily changes the date from July 31, 1988, to August 31, 1988, by which handlers of California almonds must satisfy 18 percent of their 1987-88 crop year inedible disposition obligations. Handlers must satisfy the remaining 82 percent of their inedible disposition obligations by the current July 31, 1988, date. This action is taken in view of a recent final rule which transferred an 18 percent reserve percentage in effect for the 1987-88 crop year to the salable category. This action was recommended by the Almond Board of California (Board), the agency responsible for local administration of the order.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, Room 2525, South Building, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 105 handlers of almonds subject to regulation under the marketing order for California almonds during the current season. There are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action gives handlers of California almonds an additional month to satisfy 18 percent of their 1987-88 crop year inedible disposition obligation. Therefore, this action relaxes restrictions on almond handlers and will not impose any additional burden or costs on handlers.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule revises, for 1988 only, § 981.442 of "Subpart—Administrative Rules and Regulations." The action is based on a unanimous recommendation of the Board and upon other available information.

Section 981.42 of the order provides that handlers are required to deliver a quantity of almond kernels equal to their inedible disposition obligation to the Board or Board accepted crushers, feed manufacturers, or feeders. A handler's inedible disposition obligation is the percentage of inedible kernels in lots received by such handler during a crop year, as determined by the Federal-State Inspection Service (inspection agency), less any tolerance in effect for the crop year. Section 981.42 also provides that the Board may establish rules and regulations necessary to the administration of these provisions.

Paragraph 981.442(a)(5) of such rules and regulations provides that each handler's inedible disposition obligation is satisfied when the almond meat content of the material delivered to accepted users equals the inedible disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred. This action extends the July 31 date to August 31 for 18 percent of handlers' disposition obligations incurred during the 1987–88 crop year only. Thus, handlers have until August 31, 1988, to satisfy the final 18 percent of their 1987–88 crop year inedible disposition obligation which corresponds to the 18 percent reserve almonds which will be released to the salable category on August 1, 1988. Handlers must satisfy the other 82 percent of their inedible disposition obligations by July 31, 1988.

This action is taken in view of a recent final rule which released an 18 percent reserve percentage in effect for merchantable almonds received by handlers during the 1987–88 crop year to the salable category effective August 1, 1988 (53 FR 28630). When the reserve was in effect, handlers were required to withhold 18 percent of their marketable almond receipts from normal domestic and export markets. Consequently, many handlers took no action to process those almonds. However, handlers customarily satisfy their inedible disposition obligations with inedible quality almonds removed during processing. Therefore, since the 18 percent reserve will not be released to the salable category until August 1, 1988, handlers may need additional time to process those almonds to satisfy the 18 percent of their inedible disposition obligations which corresponds to the 18 percent reserve.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is found that the change hereinafter set forth will tend to effectuate the declared policy of the Act.

It has been determined that conditions warrant publication of this final rule without prior opportunity for public comment, because this action relaxes restrictions on handlers by extending a July 31, 1988, deadline concerning 18 percent of their inedible disposition obligations. Consequently, this action should be taken as soon as possible before July 31, 1988, so that handlers may plan their operations accordingly. Therefore, pursuant to the administrative procedure provision in 5 U.S.C. 553, it is found with good cause that notice of public rulemaking and other public procedure with respect to this final action are impracticable, unnecessary and contrary to the public interest. For these reasons, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 981

Almonds, California, and Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. During the period, July 31, 1988 through August 31, 1988, revise the last sentence in paragraph (a)(5) of § 981.442 to read as follows:

Note.—This section will not be published in the annual Code of Federal Regulations.

§ 981.442 Quality control.

(a) * * *

(5) * * * Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred: *Provided,* That for 1987–88 crop year almonds, handlers have until August 31, 1988, to satisfy the 18 percent of their disposition obligation which corresponds to the 18 percent reserve almonds released to salable almonds.

* * * * *

Dated: July 29, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–17488 Filed 8–2–88; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 227

[Reg. AA; Docket No. R–0606]

Unfair or Deceptive Acts or Practices; Order Granting an Exemption to the State of California From the Credit Practices Rule

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Order.

SUMMARY: The Board has determined that the exemption from the cosigner provision of the Board's Credit Practices Rule, Subpart B of Regulation AA, requested by the state of California will be granted with respect to state-chartered institutions.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, or Linda Vespereny, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452–2412; for the hearing impaired *only*, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

1. Background

In April 1985 the Board adopted the Credit Practices Rule, 12 CFR Part 227 (50 FR 16695), thereby amending its Regulation AA (Unfair or Deceptive Acts or Practices). The Board's rule, which became effective on January 1, 1986, followed the adoption by the Federal Trade Commission (FTC) of its Credit Practices Rule in March 1984 (49 FR 7740), effective March 1, 1985.[1] The

[1] Under section 18(a)(1)(B) and section 5(a)(1) of the Federal Trade Commission Act (FTC Act), the FTC is authorized to promulgate rules that define and prevent "unfair or deceptive acts or practices" in or affecting commerce with respect to extensions of credit to consumers. Section 18(f) of the FTC Act

Continued

Board's rule applies to all banks and their subsidiaries.

The Board's Credit Practice Rule prohibits banks from entering into any consumer credit obligation that contains a confession of judgment clause, a waiver of exemption, certain types of wage assignments, or a nonpossessory, nonpurchase money security interest in household goods. The rule also prohibits the enforcement of these provisions in a consumer credit obligation purchased by a bank.

In addition, the rule prohibits a practice commonly referred to as "pyramiding" of late charges, deeming it an unfair practice for a bank to assess multiple late charges based on a single delinquent payment that is subsequently paid. The rule also prohibits a bank from misrepresenting a cosigner's liability and requires the bank to give, prior to a cosigner becoming obligated in connection with a consumer credit transaction, a disclosure notice that explains the nature of the cosigner's contractual obligations and liability.

Administrative enforcement of the Board's Credit Practices Rule is carried out through compliance examinations and investigations. Administrative enforcement of the rule may involve actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including the issuance of cease and desist orders and the imposition of penalties up to $1,000 per day for violation of an order. Staff guidelines designed to aid banks in complying with the Credit Practices Rule were issued in November 1985 (50 FR 47036), and updated in October 1986 (51 FR 39646) and in August 1988. (The latter appears in this issue of the **Federal Register**.)

Section 227.16 of the Credit Practices Rule provides that if a state applies for an exemption from a provision of the rule, an exemption may be granted if the Board determines that: (1) There is a state requirement or prohibition in effect that applies to any transaction to which a provision of the Credit Practice Rule applies; and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the federal rule. The effect of an exemption is that banks and their subsidiaries (other than federally-chartered institutions) that are subject to the Board's rule become subject solely to state law and enforcement for as long as the state effectively administers and enforces the state requirement or prohibition.

Applicable state law provisions need not be identical to the federal law in order to meet the rule's substantially equivalent standard. Variations, however, should not deprive consumers of protections provided by federal law. The state's enforcement activities, examination and administrative procedures, and other indicators of enforcement efforts are considered, as well as the existence under the state law of any private right of action for aggrieved consumers.

The state of California, through its Attorney General, applied to the Board for an exemption from the cosigner provision of the Board's Credit Practices Rule.[2] Notice of the exemption request, with an opportunity for public comment, was published on July 29, 1987 (52 FR 28271). The comparable state law provisions that form the basis for the exemption request are contained in the California Civil Code and the California Business and Professions Code.

The Board's July notice detailed and requested comments on the differences between the Board's rule and the relevant provisions of the California statutes. The five comments received generally indicated the belief that most of the relevant provisions of California law provide a level of consumer protection that is either substantially equivalent to, or greater than, that provided by the Board's rule.

The commenters also urged the Board to extend the exemption to national banks, as well as state-chartered banks. The commenters suggested that state examination of national banks for compliance is not essential to adequate enforcement of the state law cosigner provisions, given California's statutory remedy for failure to give the required cosigner disclosure notice. State exemptions generally have not applied to consumer credit laws implemented by Board regulation (specifically, the TILA) because states are not permitted to conduct examinations of national banks and the Board has taken the position that the ability to examine banks is a necessary element for proving that a state adequately enforces the state laws which are the basis for an exemption. The Office of the Comptroller of the Currency (OCC) has exclusive jurisdiction over national banks. National banks are not exempt from compliance with the federal law unless the OCC examines national banks for compliance with state laws. Consequently, exemptions under the Board's Credit Practices Rule generally have not extended to national banks.

In the Board's view differences between the Board's rule and California law are not substantial and, therefore, do not adversely affect California's exemption request. Moreover, the Board finds that California has demonstrated that it administers and enforces its laws effectively. Based on its analysis and consideration of the comments made, the Board has determined that the state of California should be granted an exemption from the consigner provision of the Board's Credit Practices Rule.

In accordance with the procedures established by the Board for making exemption determinations (contained in appendix B to Regulation Z, 12 CFR Part 226), the Board reserves the right to revoke this exemption if at any time it determines that the standards required for an exemption are not being met. A state that is granted an exemption must inform the Board within 30 days of any change in its relevant law or regulations. In addition, the state must file with the Board such periodic reports as the Board may require. The Board, in turn, will inform the appropriate state official of any revisions in the federal statute, regulations, interpretations, or enforcement policies that may require action by the state, and will allow sufficient time to the state to revise its law and regulations, in order for the state to maintain its exemption.

2. Order of Exemption

The following sets forth the terms of the California exemption:

Order

The state of California has applied for an exemption from the cosigner provision of the Board's Credit Practices Rule which became effective January 1, 1986. Pursuant to § 227.16 of Regulation AA, the Board has determined that the relevant laws of this state are substantially equivalent to the federal law and that the state administers and enforces its laws effectively. The Board hereby grants the exemption as follows:

Effective August 1, 1988, consumer credit transactions that are subject to the California Civil Code and California Business and Professions Code are exempt from the

provides that whenever the FTC promulgates a rule prohibiting practices which it has deemed to be unfair or deceptive, the Board, with certain limited exceptions, must adopt a substantially similar rule prohibiting such practices by banks. The Federal Home Loan Bank Board (FHLBB) is also required under section 18(f) to adopt a rule substantially similar to that of the FTC for institutions that are members of the Federal Home Loan Bank System; the FHLBB did so in May 1985 (50 FR 19325), with its rule also taking effect on January 1, 1986.

[2] The state of California submitted similar applications to the FTC and to the FHLBB, in order to obtain exemptions from the cosigner provisions of the credit practices rules of those agencies. The FTC granted California's exemption request on June 1, 1988 (53 FR 19893). The California exemption request to the FHLBB was published for comment on July 7, 1988 (53 FR 25500).

cosigner provision of the Board's Credit Practices Rule, 12 CFR 227.14. This exemption does not apply to transactions in which a federally chartered institution is a creditor.

By order of the Board of Governors of the Federal Reserve System, July 28, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-17402 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Part 227

[Reg. AA]

Unfair or Deceptive Acts or Practices; Update of Staff Guidelines on the Credit Practices Rule

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Update of staff guidelines on the Credit Practices Rule.

SUMMARY: The Board is publishing an update to the staff guidelines on the Credit Practices Rule, Subpart B of Regulation AA (Unfair or Deceptive Acts or Practices). The rule prohibits banks and their subsidiaries from using certain creditor remedies in connection with a consumer credit obligation, from using a late-charge practice commonly referred to as pyramiding, and from obligating a cosigner prior to giving a required notice explaining the cosigner's obligations. The update addresses questions on the use of multi-purpose credit documents, the acquisition of a security interest in household goods from a purchase-money lender, and exemptions from the rule.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, or Linda Vespereny, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-2412; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

1. Background

In March 1984, the Federal Trade Commission (FTC) adopted its Credit Practices Rule, effective March 1, 1985, pursuant to the authority granted the FTC under sections 18(a)(1)(B) and 5(a)(1) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 57a(a)(1)(B) and 15 U.S.C. 45(a)(1). Under this statute the FTC is authorized to promulgate rules that define and prevent "unfair or deceptive acts or practices" in or affecting commerce. Section 18(f) of the FTC Act, 15 U.S.C. 57a(f), provides that whenever the FTC promulgates a rule prohibiting acts or practices that it had deemed to be unfair or deceptive, the Board of Governors of the Federal Reserve System must adopt a substantially similar rule prohibiting such acts or practices by banks unless the Board finds that such acts or practices by banks are not unfair or deceptive, or that the adoption of similar regulations for banks would seriously conflict with essential monetary and payments systems policies of the Board.

In April 1985, the Board adopted a rule substantially similar to the FTC's Credit Practices Rule (50 FR 16695) as an amendment to the Board's Regulation AA, Unfair or Deceptive Acts or Practices (12 CFR Part 227). The Board modified certain provisions of the FTC's rule to take into account the needs and characteristics of the banking industry. The Board's rule went into effect on January 1, 1986.

2. Summary of the Rule

The Board's rule applies to all consumer credit obligations other than those for the purchase of real property. It prohibits banks from using certain remedies to enforce consumer credit obligations. Under the rule, banks may not include these remedies in their consumer credit obligations, and if banks purchase obligations that contain a prohibited provision, banks are prohibited from enforcing them. The prohibited provisions are: (1) Confessions of judgment; (2) waivers of exemption; (3) wage assignments; and (4) non-possessory, nonpurchase-money security interests in household goods. In addition, the rule prohibits a certain late charge practice, and provides protections for cosigners in consumer credit transactions.

The Board's rule applies to all banks and their subsidiaries. Institutions that are members of the Federal Home Loan Bank System and nonbank subsidiaries of bank holding companies are covered by the rules of the Federal Home Loan Bank Board and the FTC, respectively.

3. Staff Guidelines

Staff guidelines on the Board's Credit Practices Rule were issued in November 1985 (50 FR 47036). The guidelines focus on information of general application that will be useful to most banks, and provide the vehicle for answering questions about the rule. The guidelines are updated periodically, as necessary. The first update was in October 1986 (51 FR 39646). This notice contains the second update.

4. Explanation of Revision to Guidelines

Following is a brief description of the revisions to the staff guidelines on the Board's Credit Practices Rule.

Section 227.13 Unfair Credit Contract Provisions.

Question 13(a)-2 has been added to clarify the rule regarding the inclusion of a confession of judgment clause in a multi-purpose credit document. Some creditors use multi-purpose credit contracts for consumer, business, and other types of credit obligations. The issue is whether these forms may contain a confession of judgment clause with qualifying language indicating that the clause is not applicable in a consumer credit obligation (for example, stating that a confession of judgment is effective only "in nonconsumer purpose loans," "in business or agricultural purpose loans," or "to the extent permitted by law"). Given the public policy purpose of the rule—to eliminate the use of prohibited contract provisions in consumer credit obligations—§ 227.13(a) is strictly construed to mean that a confession of judgment clause may not be contained in consumer credit documentation, even with qualifying language. Therefore, if a bank uses a multi-purpose credit document for a consumer purpose loan, the bank must cross out, blacken in, or otherwise indicate removal of the clause from the credit document.

Question 13(d)-3a explains that when a bank refinances a purchase-money obligation originated by another lender, the acquisition of the purchase-money lender's security interest in household goods does not violate the rule.

Section 227.16 State Exemptions.

Section 227.16 allows a state agency to apply for an exemption from all or part of the provisions of the Board's rule. Question 16(b)-3 has been added to indicate the exemptions that have been granted.

List of Subjects in 12 CFR Part 227

Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance.

5. Text of Revisions

The revisions to the staff guidelines on the Credit Practices Rule read as follows:

* * * * *

Section 227.13 Unfair Credit Contract Provisions.

* * * * *

13(a) Confessions of Judgment

* * * * *

Q13(a)–2: *Language limiting confession of judgment provision.* If a bank uses multi-purpose credit contracts, may the bank include a confession of judgment clause with qualifying language indicating that the clause is not applicable in a consumer purpose loan—such as, "You confess judgment to the extent the law allows," or "This clause applies only in business purpose loans"?

A: No. Given the public policy purpose of the rule, a bank may not have a confession of judgment clause in a consumer credit contract, even with limiting language. Therefore, when a multi-purpose form is used for a consumer purpose loan, the bank must cross out, blacken in, or otherwise indicate clearly the removal of the prohibited clause from the loan document.

* * * * *

13(d) Security Interest in Household Goods

* * * * *

Q13(d)–3a: *Refinancing (new creditor)—original loan purchase money.* On the same facts as those detailed in Q13(d)–3, assume that the consumer refinances the loan with a different bank. May that bank acquire the security interest of the purchase-money lender in household goods without violating the rule?

A: Yes, the bank may acquire the security interest of the purchase-money lender without violating the rule.

* * * * *

Section 227.16 State Exemptions.

* * * * *

Q16(b)–3. *Exemption granted.* What states have been granted an exemption from the Board's rule?

A: The state of Wisconsin was granted an exemption from all provisions of the Board's rule effective November 20, 1986, for transactions of $25,000 or less. The state of New York was granted an exemption from the cosigner provisions of the Board's rule effective January 21, 1987, for transactions of $25,000 or less. In both Wisconsin and New York, transactions over $25,000 are subject to the Board's rule but compliance with state law is deemed compliance with the federal law. The state of California was granted an exemption from the cosigner provisions of the Board's rule effective August 1, 1988. These exemptions do not apply to federally-chartered institutions.

Board of Governors of the Federal Reserve System, July 28, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88–17401 Filed 8–2–88; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9205]

Occidental Petroleum Corp. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Tenneco, Inc., a Houston, TX corporation that manufactures and sells polyvinyl chloride (PVC), to abide by any divestiture order issued by the Commission against Occidental and to abide by the stipulations regarding the reacquisition of the Burlington, N.J. plant from Occidental. The order prohibits Tenneco from interferring with the relief ordered by the Commission and requires that they cooperate in the transfer of assets to a third party or business divested by Occidental pursuant to the order of the Commission.

DATE: Complaint issued April 11, 1986. Order issued July 19, 1988.[1]

FOR FURTHER INFORMATION CONTACT: Rhett Krulla, FTC/S–3302, Washington, DC 20580. (202) 326–2608.

SUPPLEMENTARY INFORMATION: On Wednesday, May 11, 1988, there was published in the **Federal Register**, 53 FR 16725, a proposed consent agreement with analysis In the Matter of Occidental Petroleum Corporation, Occidental Chemical Corporation, Tenneco, Inc., and Tenneco Polymers, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest in disposition of this proceeding as to Tenneco, Inc., and Tenneco Polymers, Inc. as set forth in the proposed consent agreement.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock Or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5–20 Federal Trade Commission Act. Subpart—Combining Or Conspiring: § 13.470 To restrain and monopolize trade; § 13.475 To restrict competition in buying. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–45 Maintain records; § 13.533–45(k) Records, in general; § 13.533–50 Maintain means of communication; § 13.533–60 Release of general, specific, or contractual constrictions, requirements, or restraints.

List of Subjects in 16 CFR Part 13

Polyvinyl chloride resin, Thermoplastic, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88–17412 Filed 8–2–88; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 211, 231, 241, and 271

[Rel. Nos. 33–6791; 34–25951; IC–16509; FR–32]

Statement of the Commission Regarding Disclosure Obligations of Companies Affected by the Government's Defense Contract Procurement Inquiry and Related Issues

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: Companies are reminded to consider their disclosure obligations in connection with issues arising from the government's defense contract procurement inquiry.

FOR FURTHER INFORAMTION CONTACT: Robert A. Bayless, Deputy Chief Accountant, Division of Corporation Finance, (202) 272–2553, or Daniel W. Rumsey, Attorney, (202) 272–3755, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

("Commission") today called attention to its requirements under the Securities Act of 1933 [1] ("Securities Act"), the Securities Exchange Act of 1934 [2] ("Exchange Act"), and the Investment Company of 1940 ("Investment Company Act") [3] regarding disclosure obligations of registrants in connection with the ongoing government investigation into illegal or unethical activity in the procurement of defense contracts. The Commission recognizes that the exact subjects and scope of the government's inquiry are still unknown. In view of the potential adverse effects upon registrants that may result from the investigation as well as any governmental action that may result, however, companies engaged in the defense buisness should review on an ongoing basis the need for appropriate disclosure, particularly in connection with their forthcoming reports or registration statements to be filed with the Commission.[4]

These considerations equally apply to companies that are subject to the inquiry and to companies that, although not targeted in the investigation, otherwise may be materially affected by the investigation as a result of additional expenditures incurred or policies and practices altered in connection with defense contract procurement. For example, disclosure of a change in practice may be required where a company, through its consultants, agents or otherwise, has been engaged in questionable conduct and thereafter alters its policies for obtaining defense contracts, or if general industry procedures change as a result of issues highlighted by the inquiry.

In addition, any investment company that has adopted a fundamental policy to concentrate [5] its investments in an industry dependent upon government defense contracts should consider disclosing in its prospectus the potentially adverse impact the government's investigation may have upon the investment company's investment in the companies within such industry.

The rules regarding filings with the Commission impose obligations on registrants to disclose specified material information in registration statements filed under the Securities Act, initial registration statements filed under the Exchange Act,[6] and annual [7] and quarterly [8] reports filed under the Exchange Act. Depending upon the provisions of the particular Form, such requirements relate to various aspects of the registrant's business, legal proceedings, management, and financial condition, among other matters.

The requirement regarding a description of the registrant's business [9] includes disclosure pertaining to any material portion of a company's business that may be subject to renegotiation of profits or termination of contracts or subcontracts at the election of the government.[10] A company's or its subsidiary's dependence on government contracts also would be required to be disclosed where the loss of such contracts would have a material adverse effect upon the company.[11] Likewise, companies, at a minimum, must disclose ceratin loss contingencies in their required financial statements.[12]

Disclosure also is required of mateial pending legal proceedings involving a company or its subsidiaries.[13] Legal proceedings known to be contemplated by government agencies similarly should be disclosed where management reasonably believes that such government action will have a material effect upon the company and its business.[14] In this regard, disclosure of known contemplated government proceedings may be required where the result may be the cancellation of a government contract, suspension of payments under a contract, termination of further business with the government, or alteration of the registrant's procedures for obtaining government contracts.

Legal proceedings involving directors, nominees, executive officers, promoters, and control persons should likewise be disclosed where material to the ability or integrity of such person.[15] In this regard, disclosure generally is required, for example, where such person was convicted in a criminal proceeding; a named subject of a pending criminal proceeding; subject to an order, judgment or decree enjoining or limiting such person from engaging in specified activities; or found to have violated any federal or state securities law.

The potential effects of the government's inquiry must be discussed in the Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") in a company's annual and quarterly reports as well as transactional filings if, in light of the associated probabilities and magnitudes, the effects may be material.[16] Such a discussion should be included where the registrant reasonably expects that the government's inquiry will have a material adverse effect on a company's financial condition, liquidity, capital resources, net sales, revenues or income from continuing operations, or such inquiry otherwise would cause a material change in the relationship between costs and revenues. Disclosure also should be provided where, in light of the uncertainty regarding the government's inquiry, reported financial information would not necessarily be indicative of the company's future operating results or financial condition.

The Commission's rules also require disclosure of any additional material information, beyond information specifically required to be disclosed, that is necessary to make the required statements not misleading, as to the business, financial results and condition, and the management of the company.[17] In this regard, consideration should be given to disclosing the effects of the government's inquiry where management reasonably believes that existing disclosure may be materially deficient because of the investigation's potential impact upon company expenditures, earnings, or competitive position within the industry.[18] Moreover, if a company has a policy or approach towards defense contract procurement that is likely to be affected as a result of the inquiry, it may be necessary to disclose such effects,

---

[1] 15 U.S.C. 77(a), *et seq.*

[2] 15 U.S.C. 78(a), *et seq.*

[3] 15 U.S.C. 80a–1, *et seq.*

[4] While this Release highlights these disclosure concerns in the context of registration statements and reports filed with the Commission, registrants should be mindful of the fact that similar issues may arise in connection with other filings, particularly transactional filings such as proxy and information statements, tender offer and issuer tender offer documents, and going private filings.

[5] *See, e.g.*, section 8(b)(1), 15 U.S.C. 80a–8(b)(1), of the Investment Company Act and Item 4(a)(ii) of Form N–1A, 17 CFR 274.11A.

[6] Form 10, 17 CFR 249.210.

[7] Form 10–K, 17 CFR 249.310.

[8] Form 10–Q, 17 CFR 249.308(a).

[9] Regulation S–K, Item 101, "Description of Business," 17 CFR 229.101.

[10] Regulation S–K, Item 101(c)(ix), 17 CFR 229.101(c)(ix).

[11] Regulation S–K, Item 101(c)(vii), 17 CFR 229.101(c)(vii).

[12] Regulation S–X, Article 5–02, 17 CFR 210.5–02 *See also* Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (March 1975).

[13] Regulation S–K, Item 103, "Legal Proceedings," 17 CFR 229.103

[14] *Id.*

[15] Regulation S–K, Item 401(f) and (g), "Directors, Executive Officers, Promoters and Control Persons," 17 CFR 229.401(f) and (g).

[16] Regulation S–K, Item 303, 17 CFR 229.303.

[17] *See* Securities Act Rule 408, 17 CFR 230.408; Exchange Act Rule 12b–20, 17 CFR 240.12b–20. *See also* Rule 14a–9, 17 CFR 240.14a–9.

[18] *See also* Regulation S–K, Item 101(c)(x), 17 CFR 229.101(c)(x), which requires disclosure of the competitive conditions within a company's industry.

including the resulting costs, in the description of the company's business, MD&A, or financial statements as appropriate.

Attention also is directed to the antifraud provisions under both the Securities Act and the Exchange Act, which apply not only to statements and omissions made in filings with the Commission but also to those made outside Commission filings.[19] Accordingly, statements made concerning companies and their management should include sufficient disclosure so as not to be materially misleading.

List of Subjects in 17 CFR Parts 211, 231, 241, and 271

Reporting and recordkeeping requirements, Securities.

PARTS 211, 231, 241, AND 271—[AMENDED]

Parts 211, 231, 241, and 271 of Title 17, Chapter II of the Code of Federal Regulations are amended by adding this Release No. 33–6791, 34–25951, IC–16509, and FR–32 (August 1, 1988) to the lists of interpretive releases.

By the Commission.

Dated: August 1, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–17576 Filed 8–2–88; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 113, 122, and 178

[T.D. 88–46]

Customs Regulations Amendments Concerning Access to Customs Security Areas at Airports

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Customs Regulations to provide that employers of persons requiring access to Customs security areas at airports would be required to post a bond in which they specifically agree that both they and their covered employees will comply with the regulations applicable to those areas and to pay liquidated damages for the failure to do so. The provisions were proposed because Customs experience since the airport security area program was introduced revealed that there were frequent violations. Employees ordered out of security areas because of lack of clearance returned later without having obtained clearance. Further, statements made by employers concerning background checks of their employees proved to be inaccurate. The New regulatory provisions permit the approved identification card, strip, or seal to be removed from employees because of bond insufficiency and permit the district director to waive the bond surety requirement for the period of a temporary identification card. The document also clarifies that law enforcement and governmental officials that are exempt from the Customs security area identification application requirements are not required to submit an Airport Customs Security Area Bond.

EFFECTIVE DATE: September 2, 1988.

FOR FURTHER INFORMATION CONTACT: Operational aspects: Patricia Carr, Office of Inspection and Control (202–566–2140). Bond aspects: William Rosoff, Entry Rulings Branch (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

Interim regulations, published as T.D. 86–12 in the **Federal Register** on February 3, 1986 (51 FR 4161), provided for the establishment of an indentification system for all employees whose duties required access to Customs security areas at airports handling international air commerce. Federal, and uniformed state and local law enforcement personnel were exempted. These regulations, which are now set forth in § 122.14, Customs Regulations (19 CFR 122.14), provided for the identification of a "Customs security area". They also required that affected employees apply for a Customs approved identification card, or a strip or seal to be affixed to existing identification cards once an authorized official of the employer attested that background checks of employment history of the affected employees had been conducted or that one was not required because the employee had been hired before November 1, 1984.

After analysis of public comments received in response to the publication of such interim regulations, several changes were made. These included changing the employment commencement date from which a background investigation would be required of an affected employee to November 1, 1985, so that it would coincide with the date which the FAA utilized in administering related requirements. Further, the requirement for law enforcement personnel to apply for an exemption was eliminated. They need only request the issuance of an approved identification card with strip or seal affixed thereto. Some comments, including one urging severe penalties for violations of the new security requirements, were considered but not adopted. A final rule, incorporating the adopted changes, was published as T.D. 86–174 in the **Federal Register** of September 12, 1986 (51 FR 32448).

Customs experience subsequent thereto has revealed that there were frequent violations of the security area provisions. We have noted that some people ordered out of the security area because they did not have clearance returned later without having obtained that clearance. Further, statements made by employers regarding background checks of persons requiring access to security areas have proven to be inaccurate. A national audit of the employee files of approximately 1000 persons subject to these provisions has revealed that there has been a failure to verify the references of almost 50 per cent of new employees. In some instances, the management of ground service companies and others have shown an indifference to these matters. We concluded that there was no existing effective enforcement mechanism and that an appropriate bond which provided for liquidated damages for violations was necessary in order to encourage compliance. We also found that employers were not timely advising Customs of employees who no longer needed access to Customs security areas.

To correct these problems, a proposed amendment to the Customs regulations regarding the airport security area program was published in the Federal Register of December 28, 1987 (52 FR 48833). Under those amendments, employers would be required to periodically file a summary report of these employee changes. Employers would also be required to advise their employees of the regulations relative to Customs airport security areas, to require that their employees familiarize themselves with those provisions and insure that all their employees comply therewith. The failure to comply with the regulations would be considered as default of the conditions of the employer's bond and would make the employer liable for liquidated damages.

If the applicant's employer has on file with Customs a Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64, Customs Regulations (19 CFR 113.62, 113.63,

[19] *See* Securities Act Section 17(a), 15 U.S.C. 77q(a), and Exchange Act Section 10(b), 15 U.S.C. 78j(b), and Rule 10b–5 thereunder, 17 CFR 240.10b–5.

113.64) relating to importers, brokers, custodians of bonded merchandise, or international carriers, the applications for an approved identification card, strip or seal would not need to be accompanied by any new bond. If there is no such bond, the application would have to be supported by an Airport Customs Security area Bond, as set forth in new Appendix A of Part 113, Customs Regulations (19 CFR Part 113).

The document clarifies that law enforcement and governmental officials that are exempt from the identification application requirements need not submit an Airport Customs Security Area Bond.

Analysis of Comments

Twenty-one comments were received in response to the notice published in the Federal Register on December 28, 1987 (52 FR 48833), proposing this change. A synopsis and analysis of the comments follows:

1. There is no opportunity to contest claims for liquidated damages for default under the terms of the bond.

Response—Administrative review is available in a claim for liquidated damages by filing a petition for relief under Subpart A, Part 172, Customs Regulations (19 CFR Part 172).

2. What is meant by the term "such other amount as may be authorized by law and regulation" in paragraph 5 of the Airport Customs Area Bond.

Response—If a law or regulation sets forth the amount of liquidated damages for a default, it would prevail over the amount stated in the bond.

3. What is the maximum limit of liability of the surety under the bond?

Response—The face amount of the bond determines the maximum liability of the surety. The district director of Customs determines the amount of the bond.

4. Which bond would be liable when an employee is the agent of an employer covered by the Customs Form 301 and the employee is also employed by another employer covered by an Airport Customs Area Bond?

Response—The district director of Customs would decide the question. Ordinarily, the bond covering the party deemed most responsible would apply.

5. Would Customs make demand on the surety for a default without first seeking payment from the principal?

Response—Section 172.1(a), Customs Regulations (19 CFR 172.1(a)) provides that the principal on a bond shall be notified in writing of any liability for liquidated damages incurred by him and a demand made for payment. It also provides that the surety shall be advised at the same time as the principal of the liability for liquidated damages incurred by the principal.

6. The bond is contradictory because the first sentence requests the name of the principal and then in the third paragraph, the bond refers to the principal as "including the principal's employees, agents, and contractors."

Response—The wording of the third paragraph of the bond is intended to make it clear that the principal is responsible for defaults of its employees, agents, and contractors.

7. The authority under 19 U.S.C. 1623 to require a bond not specifically required by law is limited to the protection of the revenue.

Response—The conclusion is incorrect. In addition to the protection of the revenue, 19 U.S.C. 1623 provides the authority to require a bond not specifically required by "law to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Treasury or the Customs Service may be authorized to enforce." The law is broad enough to authorize the requirement of an Airport Customs Security Area Bond to assure compliance with the Customs Regulations covering security areas at airports.

8. Several commenters were concerned with the economic impact of the bonding cost. They felt that only non-compliance employers should be held financially responsible for security violations and that the current proposal of $1000 in liquidated damages for each default was unjustly high. They felt that strict enforcement of current security regulations would be sufficient and that current efforts to maintain security are either inconsistent or lacking.

Response—In order to be equitable and in line with normal bonding procedures, it is a necessary requirement for all employers of persons requiring access to Customs security areas at airports to post a bond. This guarantee would place the burden of compliance on the employer, and provide Customs a consistent enforcement response from port to port.

9. Some commenters state that the definition of a "security area" is unclear and that there are difficulties with zone segregation. They are concerned about employees who have "cross over" functions with necessitate movement from one zone to another in the performance of their duties. They note that these employees, in the performance of their duties, are frequently stopped and questioned when the seal designation they are wearing does not correspond to the zone they wish to enter. They also note that a similar problem exists when, due to logistic constraints, there are employees who work domestic ramp areas adjacent to international ramp areas.

Response—While "cross-over" functions do present an operational and recurring problem at many airports, there is no specific seal identifier currently available to permit such employees to travel unchallenged from zone to zone in the performance of their duties. In the event that an employee in the performance of his duties requires access to a Customs security area with a seal designation for a Customs security area other than the one he is entering, the employee must notify Customs of the need for access and provisions will be made for his access. When there is a commingling of domestic and international operations, the security seal requirement still remains for those employees involved in international operations. Customs does reserve the right to challenge any individual in a Customs security area.

10. Violations should be specifically described, the type and number of violations that would produce a notice of liquidated damages should be clarified, the employer should be notified before a liquidated damages notice is issued and should be given an opportunity to respond to the notice.

Response—Section 122.14(b), Customs Regulations (19 CFR 122.14) (formerly § 6.12a(b), Customs Regulations (19 CFR 6.12a(b)), specifically states who must display an approved identification card, strip, or seal, issued by Customs and when it must be displayed. It states that such identification must be in the possession of the person to whom it is issued while in the Customs security areas as provided for in § 122.14(a), Customs Regulations (19 CFR 122.14(a)). The failure to comply with these requirements is covered by the bond condition/bond provided for in §§ 113.62, 113.63 and 113.64 and Appendix A of Part 113, Customs Regulations (19 CFR Part 113). The procedures for issuance of a notice for liquidated damages and the filing of a petition for relief therefrom are contained in Part 172, Customs Regulations (19 CFR Part 172). Further, § 122.14(j), Customs Regulations (19 CFR 122.14(j)) provides for the removal, revocation or suspension of an approved identification card, strip, or seal for reasons specified therein. The procedures for doing so are noted therein as are the appeal procedures.

Determination

After carefully analyzing the comments received, and further consideration of the matter, it has been

determined to adopt the changes to the requirements concerning Customs security areas at airports. Pursuant to T.D. 88–12, published in the **Federal Register** of March 22, 1988 (53 FR 9285), a new Part 122, Customs Regulations (19 CFR Part 122) was issued. These regulations set forth the general Customs requirements applicable to all air commerce formerly in Part 6, Customs Regulations (19 CFR Part 6). The amendments which were proposed to be made to Part 6, Customs Regulations and § 6.12a, in particular, are hereby being made, accordingly, to § 122.14, Customs Regulations (19 CFR 122.14). This is a non-substantive change.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collection of information in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control numbers 1515–0153, 1515–0026 and 1515–0144. The estimated average burden associated with the collection of information in this final rule is 50 minutes per respondent or recordkeeper (20 minutes, 15 minutes and 15 minutes, respectively, under the above control numbers).

Comments concerning the accuracy of the burden estimate and suggestions for reducing this burden should be directed to U.S. Customs Service, Paperwork Management Branch, Washington, DC 20229 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention Desk Officer for U.S. Customs Service.

Drafting Information

The principal author of the document was Arnold L. Sarasky, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 113

Air carriers, Customs duties and inspection, Exports, Freight, Imports, Surety bonds.

19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports, Cuba, Freight.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collection of information.

Amendments to the Regulations

Parts 113, 122 and 178, Customs Regulations (19 CFR Parts 113, 122 and 178), are amended as set forth below:

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623 and 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. Section 113.62 is amended by redesignating paragraph (i) as paragraph (j) and by adding a new paragraph (i) to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(i) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to the Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with the Customs Regulations in this chapter applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, joint and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

3. The first sentence of § 113.62(j)(1), as redesignated is amended by remvoing" (a) or (g)" and inserting, in its place, "(a), (g) or (i)".

4. Section 113. 63 is amended by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and by adding a new paragraph (f) to read as follows:

§ 113.63 Basic custodial bond conditions.

* * * * *

(f) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to Customs security areas at airports is desired, the principal (including its employee, agents, and contractors) agrees to comply with the Customs Regulations applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

5. Section 113.64 is amended by redesignating paragraph (d) as paragraph (e) and by adding a new paragraph (d) to read as follows:

§ 113.64 International carrier bond conditions.

* * * * *

(d) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with the Customs Regulations applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

6. Part 113 is further amended by adding, as Appendix A, the bond format hereafter noted for the Airport Customs Security Area Bond prescribed in § 122.14 of this chapter.

Appendix A—Airport Customs Security Area Bond

AIRPORT CUSTOMS SECURITY AREA BOND

_____ (name of principal) of _____ and _____ (name of surety) of _____ are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ____ day of _____, 19____.

Whereas, the principal (including the principal's employees, agents, and contractors) desires access to Customs airport security areas located at _____ Airport during the period of one year beginning on the _____ day of _____, 19____, and ending on the ____ day of _____, 19____, both dates inclusive;

Now, therefore, the condition of this obligation is such that—

The principal agrees to comply with the Customs Regulations applicable to Customs security areas at airports.

If the principal defaults on the condition of this obligation, the principal and surety jointly and severally, agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

Signed, sealed, and delivered in the presence of —

Name

Address

Name

Address

Principal (Seal)

Name

Address

Name

Address

Name

Address

Principal (Seal)

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644, 49 U.S.C. App. 1509.

2. Section 122.14 is amended by redesignating paragraph (b) as (b)(1) and adding a new paragraph (b)(2), by revising paragraph (c), by adding a sentence at the end of paragraph (d), by redesignating paragraph (j)(l)(vi) as paragraph (j)(l)(vii), by adding a new paragraph (j)(l)(vi), by revising redesignated paragraph (j)(l)(vii), and by adding a sentence at the end of the introductory text of paragraph (k), to read as follows:

§ 122.14 Access to Customs security areas.

* * * * *

(b)(1) * * *

(b)(2) Employers operating in Customs airport security areas shall advise all their employees of the provisions of the Customs regulations relative to those areas, require that their employees familiarize themselves with those provisions and insure that all their employees comply therewith. The failure to comply with these regulations shall be considered as a default of the conditions of the employers bond, as hereafter specified, and shall make the employer liable for liquidated damages as specified in its bond.

(c) An application for an approved identification card, strip or seal, as required by this section, shall be filed by the applicant with the district director on Customs Form 3078 and shall be supported by the bond of the applicant's employer or principal on Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64 of this chapter, relating to importers or brokers, custodians of bonded merchandise, or international carriers. If the applicant's employer is not the principal on a Customs bond on Customs Form 301 for one or more of the activities stated above, the application shall be supported by an Airport Customs Security Area Bond, as set forth in Appendix A of Part 113 of this chapter. The application requirement applies to all employees, regardless of the length of their employment. For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check shall include, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For an employee hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on fingerprint card form FD–258 at the time of the filing of the application. Proof of citizenship or authorized residency, and a photograph may also be required. In addition, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained and made available upon request by the district director for a period of 1 year following cessation of employment by affected employees.

(d) * * * An Airport Customs Security Area Bond is not required.

* * * * *

(j)(1) * * *

(vi) The bond required by paragraph (c) of this section determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(vii) The employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance because of a change in duties, termination of employment, or other reason. In this instance the employer shall notify the district director in writing, at the time of such change, and shall return the strip or seal to Customs. The notification shall include information regarding the disposition of the approved identification card of the employee who no longer requires access. A summary of such information shall be filed quarterly or at such shorter interval established by the district director. If the employee returns to duties in the Customs security area at the airport for the same employer within 1 year, a Customs Form 3078, as required in paragraph (d) of this section, need not be submitted.

* * * * *

(k) * * * Surety on the bond required by paragraph (c) of this section may be waived in the discretion of the district director, but only for the period of the temporary identification card and authorized renewals of the temporary identification card.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by deleting the reference to § 6.12a and inserting, in its place, the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
*	* * * *	*
122.14	Customs security areas in international airports	1515-0153
*	* * * *	*

William von Raab,

Commissioner of Customs.

Approved: July 13, 1988.

Salvatore R. Martoche,

Acting Assistant Secretary of the Treasury.

[FR Doc. 88–17439 Filed 8–2–88; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of N,N-Dimethylamphetamine Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) in order to temporarily place N,N-dimethylamphetamine into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding by the DEA Administrator that the scheduling of N,N-dimethylamphetamine, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the regulatory controls and criminal sanctions imposed on Schedule I substances under the CSA will be applicable to the manufacture, distribution and possession of N,N-dimethylamphetamine.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General has delegated the authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (28 CFR 0.100). A substance may be temporarily scheduled pursuant to the emergency scheduling provisions of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Federal Food, Drug and Cosmetic Act for the substance.

A notice of intent to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA was published in the **Federal Register** on Wednesday, June 8, 1988 (53 FR 21492). The Administrator transmitted notice of his intention to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration, by letter, has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Federal Food, Drug and Cosmetic Act for N,N-dimethylamphetamine. The letter further stated that the Department of Health and Human Services has no objections to DEA's intention to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA. No other comments were received regarding this matter.

N,N-dimethylamphetamine, or N,N,alpha-trimethylbenzeneethaneamine, belongs to the chemical class of compounds known as phenylisopropylamines. Amphetamine and methamphetamine also belong to this class. N,N-dimethylamphetamine is very similar in molecular structure to amphetamine and methamphetamine and produces central nervous system stimulant effects in common with them in animals. N,N-dimethylamphetamine has been produced in clandestine laboratories and has been identified in drug evidence submissions to forensic laboratories in several states.

In accordance with 21 U.S.C. 811(h)(3), the Administrator has considered the following factors regarding N,N-dimethylamphetamine: (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health.

Based on N,N-dimethylamphetamine's structural similarity to amphetamine and methamphetamine, its amphetamine-like central nervous system stimulant properties in animals, its clandestine production, distribution and abuse, the DEA Administrator, pursuant to 21 U.S.C. 811(h) of the CSA and 28 CFR 0.100, finds that scheduling N,N-dimethylamphetamine in Schedule I of the CSA, on a temporary basis, is necessary to avoid an imminent hazard to the public safety.

The following regulations are in effect on August 3, 1988 regarding N,N-dimethylamphetamine except for individuals registered with DEA in accordance with Part 1301 or Part 1311 of Title 21 of the Code of Federal Regulations and who currently possess N,N-dimethylamphetamine may continue to do so pending DEA's receipt of an amended registration no later than September 2, 1988:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports or exports N,N-dimethylamphetamine or who proposes to engage in the manufacture, distribution, importation or exportation of N,N-dimethylamphetamine or conduct research with N,N-dimethylamphetamine must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* N,N-dimethylamphetamine must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of N,N-dimethylamphetamine must comply with the requirements of §§1302.03–1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* All persons required to obtain quotas for N,N-dimethylamphetamine must submit applications pursuant to §§ 1302.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants in possession of N,N-dimethylamphetamine are required to take inventories of all stocks of this substance on hand pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations must do so regarding N,N-dimethylamphetamine.

7. *Reports.* All registrants engaged in the manufacture, packaging, labeling or distribution of N,N-dimethylamphetamine are required to submit reports in accordance with §§ 1304.35–1304.37 of Title 21 of the Code of Federal Regulations.

8. *Order Forms.* Each distribution of N,N-dimethylamphetamine requires the use of an order form pursuant to §§ 1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and Exportation.* All importation and exportation of N,N-dimethylamphetamine must be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* Any activity with N,N-dimethylamphetamine not authorized by or in violation of the CSA or the Controlled Substances Import and Export Act occurring on or after August 3, 1988 is unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the temporary placement of N,N-dimethylamphetamine into Schedule I of the CSA, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the

Regulatory Flexibility Act (Pub. L. 96–354). This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

It has been determined that the temporary placement of N,N-dimethylamphetamine into Schedule I of the CSA under the emergency scheduling provisions is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR Part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Paragraph (g)(6) is added to § 1308.11 to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(6) N,N-dimethylamphetamine (Some other names: N,N,alpha-trimethylbenzeneethaneamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers	1480

Dated: July 22, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–17413 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–09–M

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its interpretive regulation found at 28 CFR 2.64 to explain the Commission's interpretation of section 235(b)(3) of the Sentencing Reform Act of 1984 in light of the amendments to that section made by the Sentencing Act of 1987 at section 2(b)(2), Pub. L. 100–182. The amendment to section 235(b)(3) removes the requirement that the Parole Commission issue decisions within the guidelines for those prisoners who remain within the Commission's jurisdiction after October 31, 1992 and authorize the Commission to make decisions within and outside of the paroling guidelines pursuant to the established paroling policy contained at 18 U.S.C. 4206 (1976). The amended interpretive regulation is intended to reflect these changes to section 235(b)(3). Specifically, the Commission interprets the release provisions of section 235(b)(3) (as amended by the Sentencing Act of 1987) as (a) applying to persons who will be incarcerated on October 31, 1992 (the day before the fifth anniversary of the effective date of the sentencing Reform Act of 1984); (b) not requiring release dates to be set any earlier than three months before October 31, 1992; and (c) not allowing the Commission to set a release date which would conflict with the parole eligibility or ineligibility provisions of a prisoner's sentence; (d) no longer requiring the Parole Commission to make decisions within the applicable parole guideline range or those persons who will still be incarcerated after October 31, 1992 and specifically authorizing the Commission to make decisions outside of its guideline ranges where appropriate as it has done in the past.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Attorney, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Section 235(b)(3) of the Sentencing Reform Act, as amended by the Sentencing Act of 1987 reads as follows.

> The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction on the day before the expiration of five years after the effective date of this Act pursuant to Section 4206 of Title 18 United States Code. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with the Parole Commission's procedures, before the expiration of five years following the effective date of this Act.

The amendments to section 235(b)(3) were intended to clear up any confusion as to the appropriate procedures for the Parole Commission's actions pending its scheduled dissolution on October 31, 1992. The amendment makes clear the proposition that the Parole Commission is to make parole release decisions for those persons who committed their offenses prior to November 1, 1987 and are still in custody pursuant to the same policies and procedures that it had employed in the past.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Probation and parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.64 is revised to read as follows:

§ 2.64 Sentencing Reform Act.

(a) It is the Commission's interpretation of section 235(b)(3) of the Sentencing Reform Act of 1984 (Chapter II of the Comprehensive Crime Control Act of 1984), as amended by the Sentencing Act of 1987, that persons who will be incarcerated at the expiration of five years after the effective date of the Sentencing Reform Act, and whose sentences provide for parole eligibility shall, before the expiration of that five-year period, be given release dates by the Commission pursuant to 18 U.S.C. 4206. Thus, the Commission may continue to make decisions outside of its guideline ranges where appropriate.

(b) The release dates required by section 235(b)(3) need not be set any earlier than the time required to allow an administrative appeal within the five-year period; i.e., three to six months before the end of that period.

(c) Section 235(b)(3) does not apply to persons who will be on parole or mandatory release supervision at the expiration of the five-year period.

(d) Section 235(b)(3) does not change the parole eligibility date established by a prisoner's sentence and does not confer parole eligibility on prisoners whose sentences do not provide any eligibility for parole.

Date: April 25, 1988.

Benjamin F. Baer,

Chairman, United States Parole Commission.

[FR Doc. 88–17450 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Temp. Reg. E-90]

Ordering of Items From GSA Supply Catalog

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation revises the policy on ordering GSA Supply Catalog items and provides specific dollar thresholds which agencies are required to follow when placing orders with GSA. The policy change is necessary to be responsive to recent changes to the Federal Property and Administrative Services Act of 1949, as amended, which placed the Federal Supply Service under industrial funding. The regulation will result in a more cost-effective Federal supply system.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: *For general questions:* Mr. Robert A. Renner, Regulations and Policy Division (703-557-1256).

For specific policy questions: Mr. William B. Foote, Office of Policy and Agency Liaison (703-557-7970).

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

(Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486 (c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

July 14, 1988.

Federal Property Management Regulations, Temporary Regulation E-90

To: Heads of Federal agencies.

Subject: Ordering items from the GSA Supply Catalog.

1. *Purpose.* This regulation revises the policy on ordering items from the General Services Administration (GSA) to conform with recent changes to the Federal Property and Administrative Services Act of 1949, as amended, which place the Federal Supply Service under industrial funding.

2. *Effective date.* This regulation is effective on August 1, 1988.

3. *Expiration date.* This regulation expires July 31, 1989 unless sooner superseded or incorporated into the permanent regulations of GSA.

4. *Applicability.* This regulation applies to all executive agencies.

5. *Background.* Over the course of a number of years, the GSA, Federal Supply Service (FSS), has developed an extensive and viable system for supplying goods and services to Federal agencies. While the system has functioned well, it has been largely dependent upon appropriations from Congress for its financing. Recent changes to the Federal Property and Administrative Services Act of 1949, as amended, were enacted to reduce the dependency on appropriations and replace it with a method for achieving full cost recovery through appropriate pricing of items. This method is known as "industrial funding." Under industrial funding, agencies will be permitted greater latitude to purchase goods or services from the sources that are lowest in price. The program in effect links the viability of the FSS supply program more directly to its success in responding to the changing demands of its customer agencies.

6. *General policy.* a. All executive agencies within the United States (including Hawaii and Alaska), in order to maximize the use of the Government's centralized supply system, shall requisition from GSA all needed items available from the GSA Supply Catalog in accordance with the following:

(1) When the requirement is for Standard and Optional forms, an item produced by the Federal Prison Industries, Inc., or an item listed in the procurement list published by the Committee for Purchase from the Blind and Other Severely Handicapped, the dollar thresholds designated below are not applicable and acquisition of such items shall continue to be as set forth in the applicable sections of the Federal Acquisition Regulation and the Federal Property Management Regulations.

(2) When the total value of the line item requirement is less than $100, procurement from other sources is authorized.

(3) When the total value of the line item requirement is $100 or more, but less than $1,000, procurement from other sources is authorized: *Provided,* that a written justification shall be prepared and placed in the purchase file stating that such action is judged to be in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. Cost comparisons shall include the agency administrative costs to effect a local purchase.

(4) When the total value of the line item requirement is $1,000 or more, but less than $5,000, procurement from other sources is authorized: *Provided,* that a written justification shall be prepared as required by paragraph 6a(3), above, signed by a senior procurement official of the requiring agency, and placed in the purchase file.

(5) For total line item requirements of $5,000 and over, agencies shall submit such requests to GSA unless a waiver has been approved by GSA. Requests for waivers shall be submitted in accordance with paragraph 7 for consideration to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, DC 20406, prior to initiating purchase action.

Note. When an urgent requirement exists, requisitioners should consult the Federal Acquisition Regulation, § 6.302-2 (48 CFR 6.302-2) because a waiver is not required under the circumstances provided for therein.

b. Agencies shall not divide requisitions to avoid higher threshold documentation requirements.

c. GSA will process all requisitions for items listed in the GSA Supply Catalog, regardless of total line item value, from activities electing to purchase from GSA.

7. *Requests for waivers.* When the provisions of paragraph 6a(5), above, apply and a determination is made to seek a waiver from the use of GSA supply sources, the following is applicable:

a. When the item listed in the GSA Supply Catalog is not of the requisite quality or will not serve the required functional end-use purpose, a request for waiver shall be submitted to GSA and, if considered justified, will be approved. Approval of such a waiver request does not constitute authority for a sole source procurement. Requests for waiver shall contain:

(1) Complete description of the type of item required to satisfy the requirement. (Descriptive literature such as cuts, illustrations, drawings, and brochures which show the characteristics or construction of the type of item or an explanation of the operation should be furnished whenever possible.)

(2) Inadequacies of the GSA items in performing the required functions.

(3) Quantity required. (If demand is recurrent, nonrecurrent, or unpredictable, so state.)

(4) Other pertinent data, when applicable.

b. When the item listed in the GSA Supply Catalog can be purchased locally at a lower price, a request for waiver shall be submitted to GSA and, if considered justified, will be approved. Approval of such a waiver request does not constitute authority for a sole source procurement. Requests for waiver shall contain.

(1) Complete description of the type of item required to satisfy the requirement.

(2) Quantity required. (If demand is recurrent, nonrecurrent, or unpredictable, so state.)

(3) Destination of item to be delivered.

(4) Name and address of the local source.

(5) A price comparison.

(6) Other pertinent data, when applicable.

8. *Agency comments and assistance.* Comments or inquiries concerning the effect or impact of this regulation should be submitted to the General Services Administration, Federal Supply Services (FFPR), Washington, DC 20406, not later than December 31, 1988, for consideration and

possible incorporation into a permanent regulation. In particular, suggestions are requested on the appropriateness of the designated dollar thresholds, and on mechanisms to adjust these periodically to reflect changes in costs or in ordering patterns. Requests for general information and guidance should be submitted to the same address.

9. *Effect on other directives.* To the extent that any provision of any other regulation promulgated by GSA is in conflict with the policy set forth in this temporary regulation, such provisions are superseded by the policy herein. Any such conflicting regulation, including temporary regulations, will be revised, amended, or canceled in order to achieve conformity with the policy in this temporary regulation, prior to the date shown in paragraph 3, above.

John Alderson,

Acting Administrator of General Services.

[FR Doc. 88-17444 Filed 8-2-88; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 80482-8082]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date and request for comments.

SUMMARY: An emergency interim rule establishing fishery management measures for the commercial and recreational ocean salmon fisheries off Washington, Oregon, and California is in effect until July 29, 1988. The Secretary of Commerce (Secretary) extends the emergency interim rule for an additional 90 days (through October 27, 1988). This action is necessary because the conditions justifying the emergency action remain unchanged. These regulations are intended to prevent overfishing and to apportion the ocean harvest equitably among non-Indian commercial and recreational, and Treaty Indian, fisheries. These regulations also are calculated to allow a portion of the salmon runs to escape the ocean fisheries to provide for Treaty Indian and non-Indian inside fisheries and spawning.

DATES: *Effective date:* This rule is effective from 0001 hours local time, July 30, 1988, through 2400 hours local time, October 27, 1988.

Comment Date: Comments on the extension of the effective date of the emergency interim rule will be accepted until August 18, 1988.

ADDRESSES: Comments on the extension of the effective date of the emergency interim rule may be submitted to, and copies of the environmental assessment may be obtained from, Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731-7415.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206-526-6140, or Rodney R. McInnis, 213-514-6199.

SUPPLEMENTARY INFORMATION: Under section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary promulgated an emergency interim rule establishing management measures for the commercial and recreational ocean salmon fisheries off Washington, Oregon, and California for 1988 (53 FR 16002, May 4, 1988; corrected at 53 FR 19368, May 27, 1988, and 53 FR 24294, June 28, 1988). That rule was effective for 90 days, from May 1, 1988 through July 29, 1988. The Secretary extends the emergency interim rule for an additional 90 days under section 305(e)(3)(B) of the Magnuson Act because conditions justifying the emergency action remain unchanged. The 90-day extension will allow continuation of the management regime for the ocean salmon fisheries through the end of the 1988 fishing season.

At its July 13-14, 1988 meeting in Portland, Oregon, the Pacific Fishery Management Council recommended this extension. All provisions of the emergency interim rule remain in effect through October 27, 1988.

Because time does not permit a public comment period prior to the date the emergency interim rule is to expire, and to ensure that the emergency rule is extended without disruption, the Secretary has determined that good cause exists for not providing prior public comment. Therefore, comments will be accepted on extension of the effective date of the emergency interim rule for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: July 28, 1988.

William Matuszeski,

Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 661 and its Appendix are amended to be effective from July 30, 1988, through October 27, 1988, as follows:

PART 661—[AMENDED]

1. The authority citation for Part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Appendix to Part 661—[Amended]

The following amendments to the appendix to Part 661 which were published on May 4, 1988 at 53 FR 16012 are extended:

2. The amendment to section II.B.2 is extended to be effective through October 27, 1988.

3. The temporary suspension of paragraph (c)(ii) in section II.B.7. is extended to be effective through "October 27, 1988."

[FR Doc. 88-17374 Filed 7-29-88; 9:26 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3424-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA is proposing to approve revisions to the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revisions pertain to Indiana's SO_2 emission limits and plans for Floyd and Morgan Counties. USEPA's action is based upon revision requests which were submitted by the State to satisfy the requirements of section 110 of the Clean Air Act (Act).

DATE: Comments on these revisions, and the proposed USEPA actions must be received by September 2, 1988.

ADDRESSES: Copies of the SIP revisions and supporting documentation are available at the following addresses for review: (It is recommended that you telephone Kent Wiley, at (312) 886-6034, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Office of Air Management, Indiana Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206-6015

Comments on these proposed actions should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Kent Wiley, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Status of Indiana SO_2 SIP

On March 12, 1982 (47 FR 10813) and May 13, 1982 (47 FR 20583), USEPA approved or conditionally approved Indiana's SO_2 SIP for most areas of the State.[1] In these rulemakings, USEPA took no action on one of three compliance methods contained in Indiana's 1980 SO_2 regulation (325 IAC 7-1), i.e., the sulfur content in fuel averaging method which is based on 30-day average.

On May 11, 1984, the U.S. Court of Appeals for the Seventh Circuit set aside USEPA's approval of the SO_2 emission limits in Indiana's revised plan, because USEPA did not rulemake on the 30-day averaging compliance method contained in the rule. See *Indiana & Michigan Electric Company v. USEPA*, 733 F.2d 489. Based on this decision and another recent decision, *Sierra Club v. Indiana-Kentucky Electric Company*, 716 F.2d 1145 (7th Cir. 1983), USEPA determined that there were no federally enforceable SO_2 emission limits regulating most existing sources in Indiana; [2] and Indiana no longer had an approvable SO_2 plan.

On February 4, 1987 (52 FR 3452), USEPA published a notice of proposed rulemaking on the Indiana SO_2 plan. That notice proposed to disapprove Indiana's overall SO_2 plan, because the 30-day averaging compliance methodology in the rule (325 IAC 7-1-3) was inconsistent with protection of the 3-hour (short-term) and 24-hour SO_2 NAAQS; and the stack test methodology, which is consistent with short-term emission limits, was not independently enforceable. For 77 of Indiana's 92 counties, this was the only basis for the proposed disapproval of Indiana's SO_2 plan.[3] For the remaining 15 counties, technical deficiencies were noted as well.[4]

USEPA's February 4, 1987, notice indicated that correction of the identified deficiency in the compliance methodology rule would allow USEPA to reinstate its March 12, 1982 (47 FR 10813), final approval for these 77 counties.

On March 12, 1987, Indiana submitted to USEPA for "parallel processing[5] its proposed revised compliance methodology rule, 325 IAC 7-1-3.1 as preliminarily adopted by the Board on March 4, 1987.[6] The revised compliance methodology rule replaces 325 IAC 7-1-3 in the 1980 version of 325 IAC 7-1.

The revised rule includes a stack test compliance method and either a 30-day or a calendar month averaging fuel analysis method (depending upon the size of the source), each of which may be used at any time to determine compliance or non-compliance with source emission limitations.[7] However,

---

[1] In the March 12, 1982, rulemaking, USEPA approved the SO_2 plan for Morgan County, but deferred final action on the Floyd County SO_2 plan.

[2] New sources constructed under (or existing sources limited by construction of new sources under) USEPA-approved new source review (NSR) regulations, USEPA's prevention of significant deterioration (PSD) regulations, or USEPA's new source performance standards (NSPS) regulations remain bound by the SO_2 emission limitations required by these regulations or permits issued based on these regulations. These limits continue to be fully enforceable, and, unless they are supplemented by more stringent limits in the revised county-specific regulations, these limits are inherent parts of the Indiana SO_2 attainment plans being proposed for approval in today's notice.

[3] These 77 Counties are: Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clark, Clay, Clinton, Crawford, Daviess, Decator, Dekalb, Delaware, Dubois, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jennings, Johnson, Knox, Kosciusko, LaGrange, Lawrence, Madison, Marshall, Martin, Miami, Monroe, Montgomery, Newton, Noble, Ohio, Orange, Owen, Parke, Perry, Pike, Pulaski, Putham, Randolph, Ripley, Rush, St. Joseph, Scott, Shelby, Spencer, Starke, Steuben, Switzerland, Tippecanoe, Tipton, Union, Vanderburgh, Wabash, Warren, Washington, Wells, White and Whitley. All of these counties are designated "Better than National Standards" for SO_2 (40 CFR 81.315).

[4] The remaining 15 counties are: Dearborn, Floyd, Gibson, Jefferson, Lake, LaPorte, Marion, Morgan, Porter, Posey, Sullivan, Vermillion, Vigo, Warrick, and Wayne Counties. USEPA proposed rulemaking on eight of these counties March 3, 1988. (Jefferson, LaPorte, Marion, Posey, Sullivan, Vemillion, Vigo, and Wayne). (53 FR 6845, March 3, 1988). Today, USEPA is proposing rulemaking on two of these counties (Floyd and Morgan). It will rulemake on the remaining five counties in future notices.

[5] The generic procedures for "parallel processing" are described at 47 FR 22073 (June 7, 1982). The State and USEPA propose rulemaking at roughly the same time, announce concurrent comment periods, and jointly review public comments. The State and USEPA then coordinate resolution of any deficiencies prior to the State's final adoption of the rule. If the State's rule, as finally adopted, is substantially identical to the proposed rule, then USEPA will take final action on the rule shortly following its submittal to USEPA. On the other hand, if the final rule is substantially different than the proposed rule, than USEPA may publish a rulemaking notice reproposing action, as necessary.

[6] For the exact language of 325 IAC 7-1-3.1, see 52 FR 27017 (July 17, 1987).

[7] Although the rule contains a 30-day averaging compliance methodology for certain sources and

Continued

a determination of non-compliance through the use of one method cannot be refuted by evidence of compliance through the other method.

In accordance with the February 4, 1987, proposed rulemaking notice, on July 17, 1987 (52 FR 27016), USEPA (1) proposed to approve 325 IAC 7–1–3.1, because it provides for the independent use of stack testing to determine compliance with the SO_2 emission limits in 325 IAC 7–1; (2) proposed to reinstate the other provisions of 325 IAC 7–1; and (3) proposed to reinstate its approval of Indiana's plan for the 77 counties, based on the revised compliance methodology.

On October 21, 1987, Indiana submitted 325 IAC 7–1–3.1, as promulgated by the State on September 24, 1987. On January 19, 1988 (53 FR 1354), USEPA approved this rule for inclusion into the Indiana SO_2 SIP statewide; reinstated the other general provisions of 325 IAC 7–1 (1980), i.e., 325 IAC 7–1–1, 2 (except for any emission limits in the 15 counties), 4, 5, 6, and 7 statewide; and, based on its approval of the revised compliance methodology, reinstated its approval of Indiana's SO_2 plan for the 77 counties.

Indiana has also submitted county-specific plans for several other counties including Floyd and Morgan Counties. These plans consist of source-specific emission limits for certain sources, with the remainder of the sources in each county limited by the underlying 6.0 pounds per million British Thermal Units (lbs/MMBTU) emission limit in 325 IAC 7–1–2.[8]

Additionally, all sources are required to meet the remaining requirements of 325 IAC 7–1, as modified with new compliance methodology 325 IAC 7–1–3.1. [As noted before, on January 19, 1988, the general requirements of 325 IAC 7–1 (with the exception of the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2) were reinstated as a portion of the Indiana SO_2 SIP for all counties, and new compliance methodology 325 IAC 7–1–3.1 was approved for all counties.]

USEPA is proposing today to approve Indiana's SO_2 plans for the two counties listed above. This proposed approval specifically includes (1) the source-specific emission limits and other requirements in Indiana's county-specific rules and (2) the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 which is applicable to all other sources not specifically listed in the county-specific rules (except the new sources described by Footnote 1).

USEPA has previously proposed to approve a plan for Jefferson, LaPorte, Marion, Posey, Sullivan, Vermillion, Vigo, and Wayne Counties. See 53 FR 6845 (March 2, 1988). Proposed action on the plans for the remaining five counties (Dearborn, Gibson, Porter, Lake, and Warrick, Counties) will be contained in future **Federal Register** notices.

A short discussion of USEPA's proposed action follows. Additionally, technical support documents more fully explaining each plan are available at the address listed in the front of this notice.

Floyd County

USEPA noted two major deficiencies with the SIP for Floyd County in its February 4, 1987 proposed rulemaking: (1) The compliance test method was inconsistent with the short-term SO_2 NAAQS, and (2) the failure of the emission limits of the plan to ensure attainment of the 3-hour secondary NAAQS. On October 21, 1987, the State submitted a revised compliance test method rule (325 IAC 7–1–3.1). On January 19, 1988, USEPA approved this rule for all 92 counties in Indiana, including Floyd (see 53 FR 1354). Thus, this issue has been resolved.

On March 23, 1988, the State submitted a revised rule (325 IAC 7–1–16) for Floyd County. (The previous SO_2 plan for Floyd County was withdrawn on July 31, 1987.) The new rule specifies the following emission limitations for the Public Service Company of Indiana (PSI) Gallagher Station (the only significant source in the County): 6.0 lbs/MMBTU (on and before August 31, 1988) and 4.7 lbs/MMBTU (after August 31, 1988). The 6.0 lbs/MMBTU limit is designed to protect the primary NAAQS and the 4.7 lbs/MMBTU limit is designed to protect the secondary NAAQS. All other sources in Floyd County would be limited to 6.0 lbs/MMBTU. These limits are enforceable by the stack test method in 325 IAC 7–1–3.1, thus protecting the 3-hour NAAQS.

USEPA accepts the immediate compliance date for the primary standard limit and the August 31, 1988, compliance date for the secondary standard limit as being consistent with the Clean Air Act's requirements for primary attainment as expeditiously as practicable and for secondary attainment within a reasonable time.

As technical support for its revised emission limitations, the State has relied on the modeling analyses cited in USEPA's Technical Support Document for its February 4, 1987, proposed rulemaking.

It should be noted that the modeling techniques used in the attainment demonstration supporting the SO_2 emission limitations in the State's revised rule 325 IAC 7–1–16 for Floyd County are the modeling analyses cited in USEPA's Technical Support Document for its February 4, 1987, proposed rulemaking. These analyses are based on the modeling guidelines in place at the time the analysis was performed [i.e., "Guideline on Air Quality Models" (April 1978)]. Since that time, USEPA has promulgated revisions to its modeling guidelines [i.e., September 9, 1986, publication of "Guideline on Air Quality Models (Revised," July 1986, and January 6, 1988, publication of "Supplement A to the Guideline on Air Quality Models (Revised)," July 1987]. Because the modeling was completed prior to the latest revisions, USEPA accepts the Floyd County analysis as it stands.

The modeling analyses relied on by the State and discussed in USEPA's technical support document consist of:

(1) "An Analysis of the Impact Upon Air Quality in Louisville, Kentucky, from the Gallagher Steam Plant," EPA–904/2–79–045 (which is based on the CRSTER Model, two Gallagher stacks, 6 years of Louisville National Weather Service (NWS) data, coarse and fine receptor grids with terrain elevations, and background);

(2) Region IV modeling (which consisted of the CRSTER Model, two Gallagher stacks, 1 year of Louisville NWS data, fine receptor grid in the high terrain area north of Gallagher, and background), and

(3) Region V modeling (which consisted of the MPTER model, two Gallagher stacks, 5 years of Louisville NWS data, coarse receptor grid to assess interaction with Louisville sources, and background).

For a further discussion of these analyses see USEPA's November 10, 1981, memorandum entitled "APC–13 for Floyd County, Indiana."

Additional information was also submitted by the State on April 25, 1988, supporting the assumed background concentrations in the modeling analyses. Based on an emission level of 6.0 lbs/MMBTU, the analyses do not show any violations of the 24-hour and annual primary NAAQS, but do show violations of the 3-hour secondary NAAQS. The highest, second high 3-hour modeled concentration is 1634 μg/m3 (including a background of 57 μg/m3). To attain the 3-hour NAAQS of 1300 μg/m3, an emission limit of 4.7 lbs/MMBTU is

---

monthly averaging for others, for purposes of this notice, this combination of methodologies will be referred to as "30-day averaging".

[8] Indiana has recently recodified its rules from Title 325 to Title 326. All rules in today's notice will be codified under Title 326 when submitted instead of Title 325. This in no way affects the substance of the rules, and USEPA will take final action upon them using the codification in which they are promulgated and submitted by the State.

necessary. This result is shown by the three analyses cited previously. These were completed in 1979–1980.

Additional Issues

Pursuant to section 123 of the Clean Air Act, USEPA has promulgated regulations which restrict credit for stacks or sources "in existence" and dispersion techniques implemented on or after December 31, 1970.[9] The State has documented that the sources and stacks at Gallagher were "in existence" before this date. Because the post-1970 stack height regulations do not apply to Gallagher, the modeling properly assumed actual stack height and actual stack configuration. There are no other stacks with sources potentially subject to this rule in Floyd County.

USEPA policy requires SIP relaxations submitted after June 19, 1978, to be evaluated for Prevention of Significant Deterioration (PSD) increment consumption. Because the SIP revision for Floyd County represents a decrease rather than an increase in emissions, an increment analysis is not required.

USEPA previously investigated Gallagher and determined that it was not causing or contributing to violations of the SO_2 NAAQS in Kentucky (see 47 FR 6624).[10] Kentucky is the only other state within 50 km of Floyd County. This distance generally represents the maximum impact range for USEPA's guideline models.

Morgan County

USEPA cited two major deficiencies with the SIP for Morgan County in its February 4, 1987, proposed rulemaking: (1) The compliance test method was inconsistent with the short-term SO_2 NAAQS, and (2) the state failed to demonstrate that the emission limits of the plan would ensure attainment of the primary and secondary NAAQS. On October 21, 1987, the State submitted a revised compliance test method rule (325 IAC 7–1–3.1). On January 19, 1988, USEPA approved this rule for all 92 counties in Indiana, including Morgan (see 53 FR 1354). Thus, the first issue has been resolved.

On March 23, 1988, the State submitted a revised rule (325 IAC 7–1–18) for Morgan County. (The previous SO_2 plan for Morgan County was withdrawn on December 22, 1987.) The new rule specifies the following emission limitations for Indianapolis Power and Light, Pritchard Station (the most significant SO_2 source in the county): Units 1 and 2 are limited to 0.37 lbs/MMBTU. Until September 30, 1990, Units 3, 4, 5, and 6 are limited to 6.0 lbs/MMBTU. After September 30, 1990, two emission limit scenarios exist for Units 3, 4, 5, and 6 which represent two discrete modes of operation. Under the first senario, Unit 3 is limited to 0.37 lbs/MMBTU while Units 4, 5, and 6, are limited to 3.04 lbs/MMBTU. In the second scenario Units 3, 4, 5, and 6 are all limited to 2.57 lbs/MMBTU. Modeling performed by IDEM demonstrates that the national ambient air quality standards will be attained under both scenarios. In addition, Pritchard is required to increase the height of the stack serving Units 3 and 4 and the stack serving Units 5 and 6 to at least 281 feet. USEPA is considering whether the source owner should be required to provide advance notification to IDEM and USEPA prior to switching between emission limit scenarios. USEPA solicits comment on the need for such notification and on the minimum time, if any, within which notification should be required. The rule also explains how the 30-day averaging provisions of 325 IAC 7–1–3.1 will be applied to enforce the post-September 1990 two-scenario emission limits for Units 3.6. (Note, 325 IAC 7–1–3.1 which contains a stack test and a 30 day averaging fuel analysis rule, but of which are independently enforceable, is applicable in Morgan County. The Morgan County rule merely clarifies how compliance determinations will be made using the 30-day averaging provision within 325 IAC 7–1–3.2 in the county. The stack test procedures in 325 IAC 7–1–3.1 provide a testing methodology consistent with the secondary 3-hour NAAQS.)

USEPA also accepts the final compliance date of September 30, 1990. Section 110 of the Clean Air Act requires attainment of the primary NAAQS as expeditiously as practicable, but not later than three years from the date of approval of the plan, and attainment of the secondary NAAQS within a reasonable time. USEPA believes the State's September 30, 1990, final compliance date is consistent with these requirements, since Morgan County is currently designated as attainment for SO_2.

As technical support for its revised emission limitations, the State has performed a new modeling analysis (see "Morgan County SO_2 Modeling Analysis", September 1987). The analysis is summarized below.

The ISCST rural, UNAMAP Version 6, model was used with the regulatory option switch. The Model PTPLU (rural, UNAMAP Version 6) was also run to assist in developing the receptor grid, to determine the worst-case operating load for Pritchard, and to screen out the only other source in the County (General Shale Products) from further analysis. Five years of meteorological data were used. According to the PTPLU screening analysis. General Shale Products (located 11 km from Pritchard) does not threaten the NAAQS and does not interact with Pritchard. Thus, only PSI was modeled in the subsequent refined modeling analysis.

The existing three stacks (250 feet each) are less than the good engineering practice (GEP) formula height (218 feet). Stack #1 was modeled for building downwash. The rule requires Stacks #2 and #3 to be increased to the taller GEP height. Credit for these stack height increases in acceptable given IPL's fluid modeling study (see discusison below).[11] The modeling predicted that with these parameters, the emission limits in Indiana's Morgan County Plan will assure the attainment and the maintenance of the SO_2 NAAQS.

It should be noted that the modeling techniques used in the attainment demonstration are based on the modeling guidelines in place at the time the analysis was performed (i.e., "Guideline on Air Quality Models (Revised)", July 1986). Since that time, USEPA has promulgated a revision to its modeling guidelines (i.e., January 6, 1988 publication of "Supplement A to the Guideline on Air Quality Models (Revised)", July 1987). Because the modeling was completed prior to the latest revision, USEPA accepts the Morgan County Modeling as it stands.

Additional Issues

Pursuant to section 123 of the Clean Air Act, USEPA promulgated regulations on July 8, 1985, which restrict credit for stacks or sources in existence and dispersion techniques implemented on or after December 31, 1970. [See 51 FR 27893 (July 8, 1985)]. Indiana has documented that Stack #1 was in existence before this date is, therefore, "grandfather". The height of Stacks #2

[9] See 51 FR 27893 (July 8, 1985).

[10] This determination was appealed to the U.S. Court of Appeals for the Sixth Circuit. The Court upheld USEPA's determination. See *Air Pollution Control District of Jefferson County, Kentucky v. USEPA*, 739 F.2d 1071 (6th Cir. 1984).

[11] The fluid modeling study predicted 1-hour concentrations greater than 10,000 ug/m^3 at the existing stack height. It is not clear whether the required stack height increase of 31 feet will correct these concentrations. However, USEPA proposes to approve the Morgan County rule because USEPA relies on dispersion modeling, not fluid modeling, to determine whether a rule will result in attainment of the NAAQS and because IDEM's dispersion modeling is adquate for this purpose. In view of concerns raised by the fluid model estimates, USEPA recommends that ambient monitors be sited in the area of maximum fluid model concentrations.

and #3 will be increased from 250 feed to the GEP formula height of 281 feet. As required by the Stack Height Regulations, IPL performed a fluid modeling study to justifiy the stack height increase (see "Fluid Modeling Study to Determine Excessive Concentrations at Indianapolis Power and light Company's H.T. Pritchard Generating Station" and the addendum report). USEPA has reviewed this study for consistency with the Stack Height Regulations and USEPA's "Guideline for Use of a Fluid Model to Determine Good Engineering Practice Stack Height", July 1981, and has determined that the increased stack height is acceptable. The combined gas stream configuration for each stack was in effect before December 31, 1970, and is, therefore, also grandfathered.

USEPA policy requires SIP relaxations submitted after June 19, 1978, to be evaluated for PSD increment consumption. Because the SIP revision for Morgan County represents a decrease, rather than an increase, in emissions, an increment analysis is not required.

There are no other states within 50 km of Morgan County. Because this distance generally represents the maximum impact range of USEPA's guideline models, an interstate impact analysis is not possible. It should be noted, however, that because the State's analysis shows no violations at the distance of maximum impact from Pritchard, the plant will also not cause any violations at greater, out-of-state distances.

Dated: June 20, 1988.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 88-17483 Filed 8-2-88; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[FRL-3424-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on revisions to the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2) under USEPA's "parallel processing" procedures. The revisions consist of five sets of SO_2 emission limits being considered by Indiana for Warrick County and Indiana's overall SO_2 plan for Warrick County. USEPA is proposing to approve these limits (shown in the table below) and Indiana's plan for Warrick County, if the limits are ultimately adopted by Indiana. This proposed approval is based on the State's demonstrations of attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for SO_2. Indiana's submittal and USEPA's actions are based on the requirements of section 110 of the Clean Air Act (Act).

DATE: Comments on these revisions, and the proposed USEPA actions must be received by September 2, 1988.

ADDRESSES: Copies of the SIP revisions, and support documentation are available at the following addresses for review: (It is recommended that you telephone Kent Wiley, at (312) 886-6034, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Office of Air Management, Indiana Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206-6015

Comments on these proposed actions should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Kent Wiley, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for SO_2.[1] See 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978) and 40 CFR 81.315 for Indiana. In addition, section 110(a)(2) of the Act requires the State to adopt rules sufficient to assure attainment an maintenance of the SO_2 NAAQS in the unclassifiable, e.g., Warrick County, and attainment areas in the remainder of the State.

Status of Indiana SO_2 SIP

On March 12, 1982 (47 FR 10813), and May 13, 1982 (47 FR 20583), USEPA approved or conditionally approved Indiana's SO_2 SIP for most areas of the State. However, for Warrick County, USEPA disapproved Indiana's plan. On March 26, 1984 (49 FR 11197), USEPA notified Indiana under section 110(a)(2)(H) that Indiana's SIP was substantially inadequate to assure the attainment and maintenance of the SO_2 NAAQS in Warrick County.

In the 1982 rulemakings, USEPA took no action on one of three compliance methods contained in Indiana's 1980 SO_2 regulation (325 IAC 7-1), i.e., the sulfer content in fuel averaging method which is based on 30-day averaging. On May 11, 1984, the U.S. Court of Appeals for the Seventh Circuit set aside USEPA's approval of most of the SO_2 emission limits in Indiana's revised plan, because USEPA did not rulemake on the 30-day averaging compliance method contained in the rule. See *Indiana & Michigan Electric Company* v. *USEPA*, 733 F.2d 489. Based on this decision and another recent decision, *Sierra Club* v. *Indiana-Kentucky Electric Company*, 716 F.2d 1145 (7th Cir. 1983), USEPA determined that there were no federally enforceable SO_2 emission limits regulating most existing sources in Indiana and Indiana no longer had an approvable SO_2 plan.

On February 4, 1987 (52 FR 3452), USEPA published a notice of proposed rulemaking on the Indiana SO_2 plan, including Indiana's SO_2 plan for Warrick County. That notice proposed to disapprove Indiana's overall SO_2 plan, because the 30-day averaging compliance methodology in the rule (325 IAC 7-1-3) was inconsistent with protection of the 3-hour and 24-hour SO_2 NAAQS; and the stack test methodology, which is consistent with short-term emission limits, was not independently enforceable. For 77 of Indiana's 92 counties, this was the only basis for the proposed disapproval of Indiana's SO_2 plan.[2] For the remaining

---

[1] The primary SO_2 NAAQS is violated when, in a calendar year, either: (1) The annual arithmetic mean value of SO_2 concentration exceeds 80 micrograms per cubic meter of air (80 $\mu g/m^3$) (the annual primary standard), or (2) the maximum 24-hour concentration of SO_2 at any site exceeds 365 $\mu g/m^3$ more than once (the 24-hour primary standard). The seondary SO_2 NAAQS is violated when the maximum 3-hour concentration at any site exceeds 1300 $\mu g/m^3$ more than once.

[2] These 77 counties are: Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clark, Clay, Clinton, Crawford, Daviess, Decatur, De Kalb, Delaware, Dubois, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jennings, Johnson, Knox, Kosciusko, LaGrange, Lawrence, Madison, Marshall, Martin, Miami, Monroe, Montgomery, Newton, Noble, Ohio, Orange, Owen, Parke, Perry, Pike, Pulaski, Putham, Randolph, Ripley, Rush, St. Joseph, Scott, Shelby, Spencer, Starke, Steuben, Switzerland, Tippecanoe, Tipton, Union, Vanderburgh, Wabash, Warren, Washington, Wells, White, and Whitley. All of these counties are designated "Better than National Standards" for SO_2 (40 CFR 81.315)

15 counties, including Warrick County, technical deficiencies were noted as well.[3]

USEPA's February 4, 1987, notice indicated that correction of the identified deficiency in the compliance methodology rule would allow USEPA to reinstate its March 12, 1982 (47 FR 10813), final approval for these 77 counties.

On March 12, 1987, Indiana submitted to USEPA for "parallel processing" [4] its proposed revised compliance methodology rule, 325 IAC 7–1–3.1, as preliminarily adopted by the Board on March 4, 1987.[5] The revised compliance methodology rule replaces 325 IAC 7–1–3 in the 1980 version of 325 IAC 7–1. The revised rule includes a stack test compliance method and either a 30-day or a calendar month averaging fuel analysis method (depending upon the size of the source), each of which may be used at any time to determine compliance or non-compliance with source emission limitations.[6] However, a determination of non-compliance through the use of one method cannot be refuted by evidence of compliance through the other method.

In accordance with the February 4, 1987, proposed rulemaking notice, on July 17, 1987 (52 FR 27016), USEPA (1) proposed for parallel processing to approve 325 IAC 7–1–3.1 statewide, because it provides for the independent use of stack testing to determine compliance with the SO_2 emission limits in 325 IAC 7–1; (2) proposed to reinstate the other provisions of 325 IAC 7–1 statewide, except for any emission limits for the 15 counties; and (3) proposed to reinstate its approval of Indiana's plan for the 77 counties, based on the revised compliance methodology.

On October 21, 1987, Indiana submitted 325 IAC 7–1–3.1, as promulgated by the State on September 24, 1987. Because this rule was substantially identical to the rule that USEPA proposed to approve on July 17, 1987, on January 19, 1988 (53 FR 1354), USEPA approved this rule for inclusion into the Indiana SO_2 SIP statewide; reinstated the other general provisions of 325 IAC 7–1 (1980), i.e., 325 IAC 7–1–1, 2 (except for any emission limits in the 15 counties, including Warrick County), 4, 5, 6, and 7 statewide; and, based on its approval of the revised compliance methodology, reinstated its approval of Indiana's SO_2 plan for the 77 counties.

Indiana has also submitted county-specific plans for several other counties, including Warrick County. These plans consist of source-specific emission limits for certain sources, with the remainder of the sources in each county limited by 6.0 pounds per million British Thermal Units (lbs/MMBTU) emission limit in 325 IAC 7–1–2.[7] Additionally, all sources are required to meet the remaining requirements of 325 IAC 7–1, as modified with new compliance methodology 325 IAC 7–1–3.1. (As noted before, on January 19, 1988, the general requirements of 325 IAC 7–1 (with the exception of the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2) were reinstated as a portion of the Indiana SO_2 SIP for all counties and new compliance methodology 325 IAC 7–1–3.1 was approved for all counties.)

Indiana's Proposed Plans for Warrick County

Today USEPA is proposing action on Indiana's SO_2 plan for Warrick County. This plan consists of the source-specific emission limits and the other requirements in 326 IAC 7–1–17 (as preliminary adopted by the Indiana Air Pollution Control Board (IAPCB) and submitted by the State for parallel processing on July 21, 1988), the remainder of the sources in each county limited by the 6.0 lbs/MMBTU emission limit is 325 IAC 7–1–2, and the other requirements of 325 IAC 7–1, as modified with new compliance methodology 325 IAC 7–1–3.1.

USEPA is proposing to approve Indiana's plan for Warrick County and 326 IAC 7–1–17, if these limits are submitted to USEPA as a State adopted rule. This rule consists of Base and Optional Sets of emission limits. In the Base Set, source-specific emission limits are established for ALCOA—Warrick Power Station and ALCOA—Smelter Operations; Southern Indiana Gas and Electric Company's (SIGECO)—Culley Power Plant is given the discretion to vary its emission limits for units 1, 2, and 3 between two discrete operating alternatives, described more fully in the table below, provided that IDEM and USEPA are notified by certified mail at least 14 days in advance of any change. USEPA is considering whether 14 days provides sufficient advance notification and solicits comment on the adequacy of this period and other periods of time.

Under the Optional Set of alternative emission limits, SIGECO must select one set of emission limits from among the three alternative combinations listed in the table below, and may not vary emission limits among them once the limits are selected. ALCOA—Warrick Power Station and SIGECO must jointly notify IDEM and USEPA prior to December 1, 1989 of their intention to rely on a specified set of emission limits. Under the Base and Optional scenarios, emission limits for ALCOA's smelter operations remain fixed.

Table of Emissions for Warrick County As Preliminarily Adopted by IAPCB, July 21, 1988

Base Set of Emission Limits

ALCOA—Warrick Power Plant:

6.0 lbs/MMBTU prior to August 1, 1991
5.11 lbs/MMBTU beginning August 1, 1991, and afterward

ALCOA—Smelter Operations

Potline 1 Stacks: 176.3 lbs/hour
Potline 1 Roof Monitors: 19.6 lbs/hours
Potline 2–6 Stacks: 195.2 lbs/hour each
Potline 2–6 Roof Monitors: 21.7 lbs/hour each
Potline 1–6 Combined: 5608 tons/year
Anode Bake Ring Furnace: 94.1 lbs/hour, 412 tons/year[8]

---

[3] The remaining 15 counties are: Dearborn, Floyd, Gibson, Jefferson, Lake, La Porte, Marion, Morgan, Porter, Posey, Sullivan, Vermillion, Vigo, Warrick, and Wayne Counties. USEPA proposed rulemaking on eight of these counties on March 13, 1988, (Jefferson, La Porte, Marion, Posey, Sullivan, Vermillion, Vigo, and Wayne) (53 FR 6845). USEPA has recently proposed, or will soon propose, rulemaking on two of these counties (Floyd and Morgan). Today, USEPA is proposing rulemaking for Warrick County. It will rulemake on the remaining four counties (Gibson, Dearborn, Lake, and Porter) in future notices.

[4] The generic procedures for "parallel processing" are described at 47 FR 22073 (June 7, 1982). The State and USEPA propose rulemaking at roughly the same time, announce concurrent comment periods, and jointly review public comments. The State and USEPA then coordinate resolution of any deficiencies prior to the State's final adoption of the rule. If the State's rule, as finally adopted, is substantially identical to the proposed rule, the USEPA will take final action on the rule shortly following its submittal to USEPA. On the other hand, if the final rule is substantially different than the proposed rule, then USEPA may publish a rulemaking notice reproposing action, as necessary.

[5] For the exact language of 325 IAC 7–1–3.1, see 52 FR 17017 (July 17, 1987).

[6] Although the rule contains a 30-day averaging compliance methodology for certain sources and monthly averaging for others, for purposes of this notice, this combination of methodologies will be referred to as "30-day averaging".

[7] Indiana has recently recodified its rules from Title 325 to Title 326. All rules in today's notice will be codified under Title 326 when submitted instead of 325. This in no way affects the substance of the rules, and USEPA will take final action upon them using the codification in which they are promulgated and submitted by the State.

[8] The emission limits for the ring furnace in all of the plans are approvable in the context of the SIP attainment demonstration. Because this source has applied for a Prevention a Significant Deterioration (PSD) permit, however, the State has correctly included a condition in the rule that the limits established in a PSD permit will supersede the modeled SIP limits, if the permit limits are more stringent.

SIGECO—Culley Power Plant:

6.0 lbs/MMBTU prior to December 31, 1989

5.41 lbs/MMBTU beginning December 31, 1989, and until August 1, 1991

2.79 lbs/MMBTU (unit 1), 2.79 lbs/MMBTU (Unit 2), and 5.41 lbs/MMBTU (Unit 3) beginning August 1, 1991, and afterward.

As an alternative to the August 1, 1991, limits, SIGECO may at any time (provided the Indiana Department of Environmental Management (IDEM) and USEPA are both notified by certified mail at least 14 days in advance) operate under the emission limits (lbs/MMBTU) in the following scenario:

Unit 1	Unit 2	Unit 3
0.0006	4.40	5.41

Optional Set of Emission Limits

ALCOA—Warrick Power Plant:

5.4 lbs/MMBTU

ALCOA—Smelter Operations

Same as in Base Set

SIGECO—Culley Power Plant—Three Alternatives:

	Unit 1	Unit 2	Unit 3
(i)	0.0006	3.2	5.4
(ii)	2.0	2.0	5.4
(iii)	5.4	0.0006	5.4

Joint Notification and Selection of Final Limits

In order to make these limits the effective State (and SIP) limits, SIGECO and ALCOA must jointly provide notification via certified mail to IDEM and USEPA prior to December 1, 1989, of their intention to begin to rely permanently on one of the sets of limits specified in the optional set of emission limits in the table above. The written notification shall contain a notarized agreement between SIGECO and ALCOA concerning the applicable set of limits.

In each of the optional scenarios, units subject to emission limits of 5.4 lb/MMBTU shall achieve compliance by December 31, 1989, while units subject to emission limits of 3.2 lb/MMBTU or less shall comply with an interim emission limit of 5.4 lb/MMBTU by December 31, 1989, and shall achieve final compliance by August 1, 1991.

Stack Test Issues

Rule 325 IAC 7–1–3.1, which contains both independently enforceable stack test and 30-day averaging fuel analysis compliance methodologies, is applicable in Warrick County. The Warrick County rules clarify how compliance determinations will be made using the 30-day averaging provision within 325 IAC 7–1–3.1 in the county, if SIGECO switches operating scenarios among the alternatives provided in the Base Set of limits. The stack test procedures in 325 IAC 7–1–3.1 provide a testing methodology consistent with the 3-hour standard. USEPA finds the State's application of these methodologies acceptable.

A short discussion of Warrick County and USEPA's proposed action follow. Additionally, technical support documents more fully explaining this plan are available at the addresses listed in the front of this notice.

Warrick County

As discussed above, five sets of emission limitations for ALCOA and SIGECO Culley are under consideration here. The State has performed some additional analyses to supplement the 1984 modeling analysis discussed in USEPA's February 4, 1987, rulemaking action and to correct the technical deficiencies identified by USEPA. (See "Warrick County SO_2 Modeling Analysis", April 1988 and the July 1988 addendum). The additional modeling analyses used to supplement the 1984 attainment demonstration attempt to follow the modeling guidelines which were in-place at the time of the earlier modeling (i.e., "Guideline on Air Quality Models", April 1978 and "Regional Workshops on Air Quality Modeling: A Summary Report" April 1981, with addenda). Since that time, USEPA has promulgated revisions to its modeling guidelines (i.e., September 9, 1986, publication of "Guideline on Air Quality Models (Revised)", July 1986 and January 6, 1988, publication of "Supplement A to the Guideline on Air Quality Models (Revised)", July 1987). USEPA policy generally requires that when additional modeling is performed, such modeling be consistent with the current modeling guidance. In the case of Warrick County the State's additional modeling followed the modeling guidelines in place in 1984. Because the modeling was generally completed prior to the latest revisions, USEPA is proposing to accept Indiana's analysis.

On May 10, 1988, the IDEM submitted a modeling analysis consistent with the guidelines that were applicable in 1984 (e.g., calm hour concentrations excluded).[9] An addendum to this analysis was submitted in July 1988. These analyses are discussed further below.

USEPA cited two major deficiencies with the SIP for Warrick County in its February 4, 1987, proposed rulemaking: (1) The compliance test methods were inconsistent with the attainment of the short-term SO_2 NAAQS, and (2) the State's modeled attainment demonstration contained several technical deficiencies, as discussed further below.

30-Day Averaging Compliance Test Method

On October 21, 1987, the State submitted a revised compliance test method rule (325 IAC 7–1–3.1). On January 19, 1988, USEPA approved this rule for all 92 counties in Indiana (see 53 FR 1354). Thus, this compliance issue has been resolved.

The technical deficiencies cited in USEPA's February 4, 1987, proposed rulemaking, along with the State's corrective action, are summarized below:

Lack of Emission Limits for ALCOA Process Sources

The revised rule(s) and the State's modeling analyses for Warrick County include emission limits for the process sources (smelting operations) at ALCOA.

Modeled Violations Are Predicted Over Land on ALCOA Property

This deficiency is unresolved. IDEM still has not certified that ALCOA has erected fences around areas of its property which would otherwise be open to the public. According to USEPA's ambient air policy, 40 CFR 50.1(e),[10] the NAAQS do not apply over company property if public access is precluded by a fence or other physical barrier. Although the State has informally notified USEPA that such a barrier has been erected, USEPA requests the State to provide formal notification along with supporting documentation during the public comment period.

---

[9] The State's technical support document for its May 10, 1988, submittal also discusses a second modeling analysis performed with calm hour concentrations included. Because this "calms in" approach is not consistent with the guidelines that were applicable in 1984, USEPA cannot accept this second modeling analysis. See the calms policy portion of Joseph Tikvart's June 13, 1983, memorandum entitled "Regional Meteorologists Workshop, May 1983". USEPA's proposed approval today is based only on the "calms out" modeling analysis.

[10] This policy was discussed in a December 19, 1980, letter from then Administrator Douglas Costle to Senator Jennings Randolph.

Failure To Consider Building Downwash for Sigeco-Culley and ALCOA Sources, Incomplete Background Analysis, and Uncertain Application of Calm Correction Procedure

In response to these three issues, IEM recreated the 1984 modeling analysis using the Industrial Source Complex (ISC) model with the following changes:

(a) Building downwash considered for certain SIGECO and ALCOA sources, with calms corrected for with the CALMPRO post-processor (i.e., consistent with the applicable guidelines, calm hour concentrations were excluded in the calculation of 3-hour and 24-hour concentrations) (b) anemometer height set to 6.1 meters (m), not 10 m, which was erroneously used before, and (c) background SO_2 concentrations accounted for, using the State's background program.

The State's modeling, discussed in a technical support document prepared by the State entitled "Warrick County SO_2 Analysis", April 1988, is summarized below.

Emission Inventory: The point source inventory consisted of Culley Stacks 1,2,3; ALCOA Power Plant Stacks 1,2,3; ALCOA Potline Stacks 1,2,3,4,5,6 and the ALCOA Ring Furnace Stack. Each set of emission limits was modeled. Stacks below the good engineering practice (GEP) formula height were modeled for building downwash.

Receptor Grid: Receptors were excluded from fenced company property consistent with USEPA's ambient air policy. USEPA notes that no receptors were located over the Ohio River, consistent with Regional policy at the time the underlying modeling was performed (in 1984). In a letter dated September 4, 1985, Region V notified the State that all new actions with modeling analysis submitted after January 1, 1986, must include receptors over water. In its public comments dated May 4, 1987, IDEM noted that the Warrick County SIP was initially submitted in February 1985 and should, therefore, be based on the Regional guidance outstanding at that time.

Even though USEPA is today acting on a plan recently submitted by IDEM, USEPA recognizes that this plan and the associated modeling are a continuation of the 1985 submittal. For this reason USEPA proposes not to require receptors over the Ohio River for the purpose of this SIP effort and today's rulemaking actions. USEPA wishes to make clear, however, that USEPA's proposed approval of the analyses for the plan today, which do not address receptors over water, will not apply to any other analysis of the Warrick County area (or any other area) used to support any future regulatory action.

Model Results: The State's "calms out" modeling analysis (i.e., the analysis proposed today by USEPA as being consistent with the 1984 USEPA modeling guidelines) predicts that each of the alternative sets of emission limits contained in the Warrick County Plan (See Table, above) will result in concentrations below the 3-hour, 24-hour and annual NAAQS. Thus, USEPA proposes to approve each of the alternative sets of limits.

Attainment Date: USEPA accepts the State's determination that the final compliance date of August 1, 1991, for SIGECO and ALCOA meets the requirement of the Clean Air Act.[11] Based on its proposed approval of the compliance date for SIGECO and ALCOA, USEPA also proposes to approve the final attainment date of August 1, 1991, for the Warrick County plan.

Additional Issues

Pursuant to section 123 of the Clean Air Act, USEPA has promulgated regulations which restrict credit for stacks of sources in existence, and dispersion techniques implemented on or after December 31, 1970. IDEM has reviewed all sources in Warrick County and has documented that all sources and stacks were modeled consistently with these regulations.

Also Prevention of Significant Deterioration (PSD) increment consumption is not an issue, because the revision establishes Federal emission limits where none now exist. Thus, approval of the base Indiana Warrick County plan is not expected to increase actual (baseline) emissions and does not consume PSD increment. See 45 FR 52735 (August 7, 1980). Under the alternative emission limits, however, actual emissions from some sources may increase (and others may decrease) as a result of the variability afforded to ALCOA and SIGECO. Because the net effect of these emission changes cannot be estimated at this time, USEPA requests IDEM to identify during the public comment period how it will address PSD increment consumption under these conditions.

Finally the modeling included receptors in Kentucky, the only other state within 50 km., which is the normal range for USEPA's reference models. All of the combination of limits in the Table will result in attainment in Kentucky. Thus the requirements of section 110(a)(2)(E) has been met.

[11] Warrick County is currently designated unclassifiable for SO_2. Section 110 of the Clean Air Act requires attainment of the primary NAAQS as expeditiously as practicable, but no later than three years from the date of approval of the plan, and attainment of the secondary NAAQS within a reasonable time.

Summary

The July 21, 1988, plan being considered is approvable because the State's modeling analyses (which are consistent with the modeling guidelines that were applicable in 1984 and Region V guidance) demonstrate attainment and maintenance of the SO_2 NAAQS. USEPA proposes to approve the plans preliminarily adopted by the Indiana Air Pollution Control Board on July 21, 1988, provided that it is ultimately adopted by the State. (Under USEPA's parallel processing procedures, a Warrick County-specific rule must be fully State adopted, enforceable, and submitted as such as a revision to Indiana's SO_2 SIP before USEPA can take final rulemaking action on it.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. The Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642.

Dated: July 22, 1988.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 88–17484 Filed 8–2–88; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[FRL 3418–9; Docket No. AM055–PA]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Ozone

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA is today proposing approval of a request from the Commonwealth of Pennsylvania to revise the Philadelphia portion of the Ozone State Implementation Plan (SIP). This revision will amend Air Management Regulation V by adding regulations pertaining to the control of petroleum solvent dry cleaning emissions. Pennsylvania has submitted this revision to meet the requirements of

the Clean Air Act and its 1982 Ozone SIP.

DATE: Comments must be submitted on or before September 2, 1988.

ADDRESSES: Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Eighth Floor, Philadelphia, PA 19107, Attn: Donna Abrams (3AM11)

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary L. Triplett

City of Philadelphia, Air Management Services, 500 S. Broad Street, Philadelphia, PA 19146, Attn: William Reilly.

All coments on this proposed action submitted within 30 days of publication of this notice will be considered and should be directed to Mr. Joseph Kunz, Chief, PA/WV Section at the EPA, Region III address above, EPA Docket No. AM055–PA.

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3AM11) at the EPA, Region III address above or call (215) 597–9134.

SUPPLEMENTARY INFORMATION: The Clean Air Act mandates that states adopt regulations requiring Reasonably Available Control Technology (RACT). In accordance with this mandate, Pennsylvania as well as Philadelphia, committed to adopt, implement and enforce RACT regulations for applicable volatile organic compound (VOC) source categories, once future guidelines were released, as part of its 1982 Ozone SIP (50 FR 7774).

On October 6, 1982, EPA published a Group III control technique guideline (CTG) regarding the control of emissions from petroleum solvent dry cleaners (EPA–450/3–82–009). In response to the requirements of the Clean Air Act, and the commitment made in its 1982 Part D Ozone SIP to adopt RACT regulations for applicable VOC source categories, the Pennsylvania Department of Environmental Resources submitted a revision to the Philadelphia portion of the Pennsylvania Ozone SIP on February 23, 1987, which incorporated the recommendations made in this CTG document. The Commonwealth of Pennsylvania also submitted pharmaceutical tablet coating regulations which will be acted upon under a separate rulemaking action. In addition, the Commonwealth of Pennsylvania submitted a revised definition pertaining to VOC, as well as compliance guidelines for VOC. EPA is not acting on this portion of the request at this time, because Philadelphia's revised definition of VOC is inconsistent with EPA's currently recommended definition. EPA will act on this portion of the request at a later date.

This revision would amend Philadelphia's Air Management Regulation V by adding new definitions pertaining to petroleum solvents and petroleum solvent dry cleaning, and adding a new Section XI entitled "Petroleum Solvent Dry Cleaning." Compliance guidelines for implementing this Section were also submitted.

Philadelphia provided adequate notice in a local newspaper informing the public of a hearing on December 10, 1985, pertaining to the proposed amendment to Air Management Regulation V. Comments from the public hearing were taken into consideration prior to adopting final regulations. This proposed revision is discussed in more detail below.

Section I. Definitions

Petroleum Solvents—Organic material solvents produced by petroleum distillation, comprising a hydrocarbon range of mainly 8 to 12 carbon atoms per organic molecule, that are used as cleaning agents in the petroleum solvent dry cleaning industry.

Petroleum Solvent Dry Cleaning—A process for the cleaning of fabrics with a petroleum solvent by means of one or more washings in solvent, extraction of excess solvent, and drying by exposure to a heated air stream. A petroleum solvent dry cleaning facility includes, but is not limited to, washers, dryers, solvent filters and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping valves.

Section XI. Petroleum Solvent Dry Cleaning

This section applies to petroleum solvent dry cleaning facilities, as defined in section I, that consume more than one hundred (100) gallons of petroleum solvent on a daily basis.

This regulation specifies that the owner or operator of any petroleum solvent dry cleaning dryer subject to this section shall limit VOC emissions to the atmosphere to an average of 3.5 pounds of VOC per one hundred (100) pounds dry weight of articles dry cleaned; or shall install and operate a solvent recovery dryer in a manner such that the dryer remains closed and the recovery phase continues until a final recovered solvent flow rate of fifty (50) milliliters per minute is attained.

Another provision of this regulation specifies that any petroleum solvent filtration system subject to this section shall reduce the VOC content in all filtration wastes to one (1) pound or less per one hundred (100) pounds dry weight of articles dry cleaned, before disposal and exposure to the atmosphere; or shall install and operate a cartridge filtration system, and drain the filter cartridges in their sealed housings for eight (8) hours or more before their removal.

Furthermore, this regulation requires that the owner or operator of any petroleum solvent dry cleaning facility subject to this section shall repair all petroleum solvent vapor and liquid leaks within three (3) working days after identifying the sources of the leaks. Also, if the necessary repair parts are not on hand, the owner or operator shall order these parts within three (3) working days, and repair the leaks no later than three (3) working days following the arrival of the necessary parts.

Additionally, this regulation specifies that the owner or operator of any petroleum solvent dry cleaning facility subject to this section shall install, operate and maintain equipment consistent with manufacturer's specifications and recommendation in order to minimize VOC emissions. Also, the owner or operator shall minimize fugitive VOC emissions from the storage, handling and transfer of petroleum solvent or petroleum solvent containing materials through employment of appropriate operating practices or procedures to reduce solvent loss and evaporation to the atmosphere.

Lastly, the CTG requires that the implementing agency establish or approve procedures, methods and guidelines for petroleum solvent dry cleaning facilities to determine compliance with the requirements of this section and the owner or operator of any affected facility shall comply with such procedures, methods and guidelines, including requirements for inspection, testing, recordkeeping and reporting, as prescribed by the agency and consistent with current U.S. EPA guidance. The compliance guidelines for control of emissions from petroleum solvent dry cleaning have been submitted as part of the SIP revision, and are discussed in more detail in the technical support document (TSD) accompanying this proposed rulemaking action.

It should be noted that the compliance guidelines currently do not contain specific recordkeeping and reporting

requirements. The Philadelphia Air Management Services (AMS) has drafted reporting and recordkeeping requirements to be incorporated into these guidelines. These proposed requirements read as follows:

Recordkeeping and Reporting

The owner or operator of any affected petroleum solvent dry cleaning facility shall maintain records of operations, inspections, and maintenance such that the PADER can determine compliance. These records shall at a minimum, include:

1. Information on purchases, inventory, and daily consumption of petroleum solvents.
2. Operational information on washers, dryers and solvent filtration systems, including daily hours of operation, cycle times, and dry weight of articles cleaned.
3. Information on leak inspections and repairs for all equipment and components handling petroleum solvents.

Each required record or item of information shall be retained at the facility for a period of two (2) years, and shall be made available to the Department for inspection or copying upon request.

A. The owner or operator shall also maintain and make available for inspection by the Department copies of all manufacturers' specifications and recommendations for dry cleaning equipment operated at the facility.

B. The Department may require the owner or operator of any affected facility to submit reports summarizing information on daily operations, inspections and maintenance activities, or such other information as required by the Department to determine compliance. The Department shall notify the owner or operator in writing of such reporting requirements and shall prescribe the form and manner in which such reports are to be submitted.

An addendum to the TSD has been prepared which outlines this proposed amendment to the compliance guideline, as well as outlining other minor revision pertaining to recordkeeping and reporting. The amendments regarding recordkeeping and reporting will be formally incorporated into the compliance guidelines prior to taking final rulemaking action on this request.

EPA is proposing approval of this revision based on a determination that it conforms with the CTG pertaining to large petroleum dry cleaners (EPA 450/3–82–009), as well as fulfilling the requirements of the Clean Air Act which mandates the adoption of such a regulation. Also, in accordance with this mandate, this action fulfills a requirement contained in the 1982 Part D Ozone SIP for Pennsylvania and Philadelphia which specifies that RACT regulations for applicable VOC source categories, for which guidelines are released, must be adopted, implemented and enforced by the state.

In addition to the above, EPA is proposing approval based on a determination that the amendment meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Date: November 4, 1987.

Stanley L. Laskowski

Acting Regional Administrator.

[FR Doc. 88–16548 Filed 8–2–88; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 180

[OPP–300176; FRL–3423–6]

Acetyl Tributyl Citrate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that acetyl tributyl citrate (CAS Reg. No. 77–90–7) be exempted from the requirement of a tolerance when used as an inert ingredient (plasticizer) in pesticide formulations applied to animals. This proposed regulation was requested by Alpha Chemical and Plastics Corp.

DATE: Written comments, identified by the document control number [OPP–300176], must be received on or before September 2, 1988.

ADDRESS:

By mail, submit comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Kerry B. Leifer, Registration Support and Emergency Response Barnch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–7700.

SUPPLEMENTARY INFORMATION: At the request of Alpha Chemical and Plastics Corp., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for acetyl tributyl citrate when used as a component of plastic animal tags in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limted to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrigeenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the

common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Acetyl tributyl citrate (CAS Reg. No. 77–90–7).

Name and address of requestor. Alpha Chemical and Plastics Corp., 1 Jabez St., Newark, NJ 07105.

Bases for approval of acetyl tributyl citrate. 1. No effects were observable when acetyl tributyl citrate was administered to rats at 5 percent of the diet in an 8-week feeding study.

2. No concerns were raised during a structure-activity review of acetyl tributyl citrate.

3. Acetyl tributyl citrate is cleared under 21 CFR 181.27 for use as a migrating plasticizer in food-packaging materials.

4. Acetyl tributyl citrate is cleared under 21 CFR 175.300 as a component of resinous and polymeric coatings used as food-contact surface of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support this regulation.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the proposed amendments to 40 CFR Part 180 will protect the public health. It is therefore proposed that the regulations be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that contains this inert ingredient may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP–300176]. All written comments filed in response to this proposal will be available for inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 21, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Acetyl tributyl citrate (CAS Reg. No. 77–90–7).	.....	Component of plastic animal tags.
* * * * *		

[FR Doc. 88–17344 Filed 8–2–88; 8:45 am]

BILLING CODE 6560–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[EX Parte No. 274; Sub-No. 13]

Rail Abandonments; Use of Rights-of-Way as Trails

AGENCY: Interstate Commerce Commission.

ACTION: Advanced notice of proposed rulemaking; extension of comment period.

SUMMARY: The Commission extends, for an additional 15 days, the comment period in this rulemaking proceeding which has been reopened to consider a proposal by the National Association of Reversionary Property Owners (NARPO) to consider whether the rules implementing section 1247(d) of the National Trails System Act (16 U.S.C. 1247(d) (*Trails Act*), adopted in *Rail Abandonments—Use of Rights-of-Way as Trails*, 2 I.C.C.2d 591 (1986) (*Trails I*) and *Rail Abandonments—Supplemental Trails Act Procedures*, 4. I.C.C.2d 152 (1987) (*Trails II*), codified at 49 CFR 1152.29, should be amended to require railroads and trail groups to report to the Commission on the outcome of negotiations to transfer railroad rights-of-way for interim trail use and rail banking purposes under section 1247(d).

Petitioners argue that extending the comment period is necessary to give interested persons the opportunity to comment on NARPO's proposal in the context of *National Wildlife Federation. et al.* v. *Interstate Commerce Commission, et al.*, U.S.C.A., D.C. Cir., Nos. 86–1389. On June 10, 1988, the United States Court of Appeals for the District of Columbia Circuit in that case affirmed in part and remanded in part our decision in *Trails I* regarding the issue of whether trail use and rail banking could ever constitute a taking of reversionary interests for which compensation must be paid under the Fifth Amendment to the U.S. Constitution. While I see no real connection between the remanded questions and the supplemental rulemaking, I will grant a 15-day extension. Only *Trails I* issues *directly relevant* to NARPO's reporting proposals will be considered here. All other issues presented by the *Trails I* remand will not be considered or addressed in this proceeding, but will be considered only when *Trails I* is reopened for that purpose. Any comments beyond the scope of those authorized here will not be considered

DATES: Comments are due on August 18, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

[TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's prior notice (published at 53 FR 19807–08 (May 31, 1988) and decision (served May 27, 1988). To obtain a copy of that full decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan Area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

This action will have no impact on the human environment or energy conservation because it involves only possible reporting requirments.

It has been certified that the proposals, if adopted, would have no significant impact on small businesses because only possible reporting requirements by trail user groups are involved.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Environmental protection, National trails system, National resources, Railroads, Recreation, Recreation areas.

Authority: 5 U.S.C. 553; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10903, 10904, and 10906.

Decided: July 27, 1988.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 88–17424 Filed 8–2–88; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 29, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250 (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Marketing Agreement for Peanuts—No. 146
Peanut Administrative Committee Forms
Recordkeeping; On occasion; Weekly; Monthly; Annually
Business or other for-profit; 7903 responses; 2082 hours
Virginia M. Olson (202) 447–5057
• Agricultural Marketing Service
Poultry Market News Reports
PY–10, PY–17, PY–88, PY–90
Weekly; Monthly
Businesses or other for-profit; Small business or organizations; 55,932 responses; 2,242 hours
Floyd D. Blethen (202) 447–6911
• Rural Electrification Administration
Rating Summary of Operations and Maintenance (REA Electric System)
REA Form 300
On occasion
Small businesses or organizations; 328 responses; 1,312 hours
Archie W. Cain (202) 382–1900
• Agricultural Marketing Service
Oregon—Washington—California Winter Pears, Marketing Order No. 927
Committee forms only
Recordkeeping; On occasion
Farms; Businesses or other for-profit; 5,182 responses; 3,320 hours
Virginia M. Olson (202) 447–5057

Revision

• Agricultural Marketing Service
Melons Grown in South Texas, Marketing Order No. 979
Recordkeeping; On occasion; Biennially
Farms; Businesses or other for-profit; 149 responses; 15 hours
Virginia M. Olson (202) 447–5057.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 88–17427 Filed 8–2–88; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Finding of No Significant Impact; Otoucalofa Creek Watershed, MS

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 650); U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Otoucalofa Creek Watershed, Calhoun, Lafayette, Yalobusha Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: L. Pete Heard, State Conservationist, Soil Conservation Service, Suite 1321, A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–965–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Pete Heard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection in a partially completed watershed. The planned works of improvement include the land treatment throughout the watershed, 20 floodwater retarding structures, 5 major grade control structures, 8 miles of streambank protection, and minor grade control structures. Planned measures will be installed jointly by the Corps of Engineers and the Soil Conservation Service as a component of a Demonstration Erosion Control Project.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting L. Pete Heard.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

L. Pete Heard,

State Conservationist.

Dated: July 5, 1988.

[FR Doc. 88–17497 Filed 8–2–88; 8:45 am]

BILLING CODE 3410–16–M

Finding of No Significant Impact; Polk Creek Watershed, WV

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for supplemental work in the Polk Creek Watershed, Lewis County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, Telephone: 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project

The supplemental project concerns a plan for flood control. The planned works of improvement include clearing and snagging 1.3 miles of lower Polk Creek.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, West Virginia.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Rollin N. Swank,

State Conservationist.

July 26, 1988.

[FR Doc. 88–17442 Filed 8–2–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Sole Proprietorships
Form Number: Agency—EC–104 OMB—None
Type of Request: New Collection
Burden: 5000 Respondents; 1250 Reporting hours. Average hours per response—.25 hours.
Needs and Uses: Information is used to estimate undercoverage in the sole proprietorship component of the 1987 Economic Censuses.
Affected Public: Households that reported self-employment income on the March, 1988 Current Population Survey (CPS).
Frequency: One time.
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 28, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17455 Filed 8–2–88; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1988 Long-Term Care Survey
Form Number: LTC 1, 2, 3, 7, 9L1, 9L2, 9L3, 9L4, 9L5, 10, 11
Type of Request: New
Burden: 9,296 hours
Avg Hours Per Response: Ranges from 2 to 70 minutes, depending on the form used
Needs and Uses: This survey will obtain data to be used by Duke University and others to determine the health care needs of people 65 years and older.
Affected Public: Individuals or households Businesses or other for-profit
Frequency: One-time, except for institutionalized respondents who will respond twice (semi-annually)
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: July 28, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17456 Filed 8–2–88; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, Allen Moore, of the Performance Review Board. This is a revised list of membership which includes previous members as listed in the August 7, 1987, **Federal Register** Announcement (52 FR 29405) with additional members added to serve a two year term. The purpose of the International Trade Administration's PRB is to review and make recommendations and other issues concerning members of the Senior Executive Service (SES). The names of the PRB members are:

Joseph Spetrini, Deputy to the Deputy Assistant Secretary for Import Administration
Maureen R. Smith, Deputy Asssistant Secretary for Japan International Economic Policy
Michael J. Coursey, Director, Office of Investigations Import Administration
Rolf D. Luft, Deputy Assistant Secretary for Services Trade Development
Michael R. Czinkota, Deputy Assistant Secretary for Trade Information and Analysis Trade Development
Saul Padwo, Director, Office of Trade Promotion, U.S. & Foreign Commercial Service
Marilyn Wagner, Assistant General Counsel for Administration.

Dated: July 22, 1988.

James T. King, Jr.,

Personnel Officer, ITA.

[FR Doc. 88-17420 Filed 8-2-88; 8:45 am]

BILLING CODE 3510-05-M

Minority Business Development Agency

Business Development Center Program Applications; North Carolina

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications for an Indian Business Development Center (IBDC) under its American Indian Program (AIP) to operate an IBDC for a 3 year period, subject to satisfactory performance, Agency priorities and availability of funds. The cost of performance for the first 12 months is estimated at $193,000 for the budget period January 1, 1989 to December 31, 1989. The IBDC will operate in the Cherokee Indian Reservation/Asheville, North Carolina geographic service area.

The funding instrument for the IBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The IBDC is designed to provide management and technical assistance to the minority business community and, in particular, to American Indian clients for the establishment and operation of businesses. In order to establish this, MBDA supports IBDC firms that can coordinate and broker public and private resources on behalf of American Indian and other minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the minority business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing management, and technical assistance (10 points); the firm's approach to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive.

The IBDC will operate for a 3 year period with periodic reviews culminating in year-to-date quantitative and qualitative evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is September 15, 1988. Applications must be postmarked on or before September 15, 1988.

ADDRESS: Atlanta Regional Office, U.S. Department of Commerce/MBDA, 1371 Peachtree St., Suite 505, Atlanta, GA 30309, 404/347-4091, Area Code/ Telephone Number.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Friday, August 26, 1988, at 10:00 a.m.

11.801 Minority Business Development (Catalog of Federal Domestic Assistant)

Robert M. Henderson,

Acting Regional Director, Atlanta Regional Office.

Dated July 28, 1988.

[FR Doc. 88-17440 Filed 8-2-88; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

[Docket No. 80589-8089]

Proposed Federal Information Processing Standards Publication for Conformance Testing Policy and Procedures

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal Information Processing Standards Publication for Conformance Testing Policy and Procedures.

SUMMARY: The Institute for Computer Sciences and Technology (ICST), at the National Bureau of Standards (NBS) is responsible for developing the standards that the Federal Government uses in its computer and related telecommunications systems. The ICST works with Government, industry, standards organizations, and research institutions to get the Federal Government's requirements for standards addressed and implemented in off-the-shelf commercial products. Where products are expected to support complex standards specifications, conformance testing may be required to reduce risks and raise confidence in information system products.

Prior to submission of these proposed conformance testing policy and procedures to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a section detailing the policy and procedures. Both sections are included in this announcement.

DATE: Comments on this propsoed FIPS must be received on or before November 1, 1988.

ADDRESS: Written comments concerning the adoption of this document as a FIPS should be sent to: Director, Institute for

Computer Sciences and Technology, ATTN: FIPS Conformance Testing Policy and Procedures, Technology Building, Room B–154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. L. Arnold Johnson, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–3247.

Date: July 28, 1988.

Ernest Ambler,

Director.

Federal Information

Processing Standards Publication

_____

(date)

Announcing the

CONFORMANCE TESTING POLICY AND PROCEDURES

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Document. Conformance Testing Policy and Procedures.

Category of Document. General Publication.

Explanation. This document establishes a policy and procedures regarding conformance testing programs for Federal Information Processing Standards (FIPS). This FIPS specifies the policy and procedures for conformance test methods, for conformance testing of implementations of FIPS, and for certifying those implementations that comply with the FIPS requirements. An organizational model of a FIPS certification system is described. Under this system an implementation of a FIPS can be tested by an ICST recognized testing laboratory, and the test results accepted by ICST as the basis for a certificate indicating compliance with that FIPS.

Approving Authority. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Applicability. The policy and procedures for conformance testing defined herein apply whenever FIPS contain requirements for conformance testing in order to support Government objectives for information systems.

Implementation. This FIPS becomes effective *(6 months)* after approval.

Specifications. Federal Information Processing Standards Publication _____ (FIPS PUB _____), Conformance Testing Policy and Procedures (affixed).

Special Information. Comments and questions concerning this policy and procedures should be addressed to: Director, Institute for Computer Sciences and Technology, ATTN: FIPS Conformance Testing Policy and Procedures, National Bureau of Standards, Gaithersburg, MD 20899.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____) and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

Federal Information

Processing Standards Publication

_____

(date)

CONFORMANCE TESTING POLICY AND PROCEDURES

CONTENTS

1. Introduction
  1.1 Background
  1.2 Purpose
  1.3 Scope
2. Organizational Model for FIPS Conformance Testing
  2.1 FIPS Certification Body
  2.2 Testing Laboratories
  2.3 Clients
3. Testing Laboratory Accreditation
4. Test Method, Procedures, Reports and Certificates
  4.1 Conformance Testing Elements
  4.2 Testing Program Implementation and Administration
5. Recognition of Other Conformance Testing Activities
Appendix

1. Introduction

1.1 Background

The National Bureau of Standards (NBS), Institute for Computer Sciences and Technology (ICST) is responsible for developing U.S. Government-wide Standards for computer software, hardware, data management, security, networks and related telecommunication systems. The authority for this responsibility is assigned under the Federal Property and Administrative Services Act of 1949, as amended by Public Law 100–235.

ICST develops standards, provides technical assistance, and carries out research to advance the effective use of computers by government and industry. ICST works through voluntary industry standards organizations to develop standards that will meet the needs of government users. These standards are issued as Federal Information Processing Standards (FIPS) and provide the foundation for compatibility and, where necessary, interoperability among government systems implementing these standards. FIPS also serve as the basis for Government acquisition of commercial off-the-shelf products and services from competitive sources.

The pace of standards development for information systems (information processing and telecommunications) has intensified in recent years, stimulated by user needs for interconnectivity of hardware, software, and network systems. These standards are increasingly complex—often describing functional requirements and allowing for numerous options in implementation.

To achieve interoperability and effective use of information systems, users need off-the-shelf products that work together and conform to these emerging standards. Where products are expected to support complex standards specifications, conformance testing may be required to reduce risks and raise consumer confidence in information system products.

ICST is responsible for organizing, managing, directing and administering the FIPS program. Among the responsibilities assigned under the FIPS program is the task of insuring that, for products to be acquired by the Federal Government, a mechanism is availiable for determining that these products conform to the FIPS. In carrying out this task, the ICST develops and maintains conformance testing programs for the FIPS. These programs require adequate test methods and procedures, suitable testing laboratories, and a formal acknowledgement of product compliance or noncompliance to FIPS.

1.2 Purpose

This document is intended to inform Government agencies, industry, standards development bodies, and other interested organizations of the

ICST policy with regard to FIPS conformance testing programs.

The purpose of this document is to provide a framework for developing uniform Government-wide conformance testing programs for FIPS. This common framework of policies and procedures serves as the basis upon which the detailed procedures for a conformance testing program are defined. Some or all of the features identified by this framework may be selected where appropriate to meet a FIPS conformance testing need.

The FIPS conformance testing program objectives are:

—To encourage more effective utilization and management of Government staff by ensuring that skills acquired on one job are transportable to other jobs thereby reducing the costs of staff retraining.

—To reduce the overall information systems costs by making it easier and less expensive to maintain information technology applications and to transfer these applications among different information systems, including replacement systems.

—To protect the technical assets and staff time of the Federal Government by insuring to the extent possible that products (off-the-shelf or government developed) brought into the Federal inventory comply with Government approved FIPS.

—To establish proven test methods and competent testing services for assisting Government agencies in the procurement of industry supplied products.

1.3 Scope

The focus of this document is to define policy and procedures related to conformance testing for FIPS. Other types of testing such as performance, acceptance, and quality testing, are not addressed in this document.

In determining conformance testing requirements for a given FIPS, a number of areas are expected to be considered. Among the areas to be considered are the Government testing needs, test method technology, standard specifications, alternative testing sources (third-party testing, Government testing, self-testing, etc.), and existing accreditation and certification systems.

A number of different techniques may be required for testing conformance to the FIPS. Conformance testing may include the facilities of computer hardware, software or communication networks. Where necessary to assess FIPS conformance, it may include a demonstration of interoperability against a reference implementation.

The validation of information system products as used in this document applies to the process of testing and certification of a product that is purported to conform to the FIPS. These policies and procedures do not address the validation and verification (V&V) associated with the various steps of the product development life cycle.

Some terms in this document have specific meaning. The Appendix provides a definition of these terms. Whenever these terms are intended to carry the meaning defined in the Appendix, they will be highlighted in the document.

The policy and procedures for conformance testing defined herein apply whenever FIPS standards are required to support Government objectives for information systems.

2. Organizational Model for FIPS Conformance Testing

Conformance testing for a FIPS will be accomplished in accordance with the organizational model described in this section. This organizational model consists of a certification body, testing laboratories and the clients. Each member of this organization shares important responsibilities for assuring compliance of products for conformance to a FIPS. Under the rules and procedures established by ICST, this model will enable a client to have his product tested by any ICST recognized testing laboratory; and the test results produced by that laboratory accepted by ICST as the basis for issuing a validation certificate to the client. The validation certificate is formal notification by ICST that the product meets the compliance requirements for that FIPS.

A certification body is established for each FIPS designated to have a conformance testing program. The same basic organizational model is used for each conformance testing program. Full implementation or use of all parts of the organizational model depend on the complexity of the standard and the conformance testing needs for that standard.

This section identifies the responsibilities for each member involved in the organization.

2.1 FIPS Certification Body

The Director of ICST provides the overall direction for organizing, managing, directing, the administering the FIPS Certification Body.

The Director of ICST is the FIPS Certification Authority for the FIPS conformance testing program. The Director of ICST:

a. Establises and maintains the conformance testing program policies and procedures,

b. Approves the test method used in determining compliance of products to each FIPS,

c. Develop and maintains the validation procedures to be followed by clients in order to receive a validation certificate.

d. Issues a validation certificate based on the results of a test report,

e. Establishes the period of time a validation certificate is effective,

f. Establishes the accreditation criteria for testing laboratories for each FIPS,

g. Maintains and periodically publishes the official list of products that have a current validation certificate,

h. Coordinates with other certification authorities to review certification criteria for the purpose of harmonizing certificates and making provisions for mutual recognition of conformance testing.

i. Evaluates and resolves disputes on all matters concerning conformance testing for FIPS,

j. Periodically assesses the need for a conformance testing program, maintenance of a test method or testing laboratory accreditation program, for a FIPS,

k. Maintains and publishes lists of testing laboratories recognized by ICST to perform FIPS conformance testing,

l. Insures that facilities are available to maintain the test method, and to provide assistance to testing laboratories and clients, and

m. Establishes the fees or rates for ICST provided products and services.

2.2 Testing Laboratories

Testing laboratories as used in this document perform conformance testing in accordance with ICST approved validation procedures. Testing laboratories may be commercial laboratories, university laboratories, Federal, State or local Government laboratories, or foreign-based laboratories.

Only testing laboratories accredited under an ICST approved laboratory accreditation program, or testing laboratories under formal agreement with ICST shall be recognized by ICST to do FIPS conformance testing.

The responsibilities of a testing laboratory are to:

a. Obtain and maintain laboratory accreditation as appropriate,

b. Conduct conformance testing in accordance with the ICST precribed procedures,

c. Prepare a test report in accordance with ICST prescribed procedures as a result of the testing performed,

d. Participate in proficiency testing as required,

e. Pay all relevant fees,

f. Participate in training sessions or meetings as required by ICST to remain up-to-date of changes to the test method and the validation procedures,

g. Provide feedback to ICST on problems and improvements relating to the test methods and validation procedures.

2.3 Clients

Clients are responsible for submitting requests for product validation in accordance with ICST prescribed procedures. The responsibilities of a client include:

a. Providing complete and accurate information to the testing laboratory and certification body for the performance of the requested validation.

b. Submitting information in a timely manner so that the validation process can be completed in sufficient time to meet the needs of the client.

c. Submitting a "Declaration of Conformance" as required by the validation procedures.

d. Unless otherwise agreed to by the testing laboratory providing the test facilities and materials necessary for testing.

e. Providing a product in conformity with the FIPS.

3. Testing Laboratory Accreditation

ICST will carry out its responsibilities for conformance testing through testing laboratories judged to be competent to objectively perform the necessary tests. Laboratory accreditation serves as a basis for determining laboratory competence. The purpose is to insure that testing facilities are available for obtaining an unbiased assessment of products regarding FIPS conformity.

Wherever appropriate for a given FIPS, ICST will draw upon the NBS National Voluntary Laboratory Accreditation Program (NVLAP) as the basis for accrediting testing laboratories. ICST shall establish technical criteria for laboratory accreditation, and provide technical experts for assessing testing laboratory competence.

The objectives of laboratory accreditation are to:

a. Provide objective unbiased testing services,

b. Assess and evaluate each testing laboratory accredited to do testing for conformance to FIPS by:

(1) Conducting periodic laboratory proficiency testing to identify testing deficiencies,

(2) Initially, and periodically thereafter, conducting on-site assessments to determine compliance with the accreditation criteria, and

(3) Conducting visits to verify reported changes in the laboratory's personnel, facilities, and operations, or to explore possible reasons for poor performance in testing practices.

c. Insure that the testing laboratory has adequate quality control, facilities, equipment and personnel to conduct testing,

d. Determine that the testing laboratory staff is adequately trained in using the appropriate test method, following the prescribed validation procedures and is knowledgeable of the criteria for validation certificates,

e. Insure that adequate records are maintained to support the testing performed and that test reports are produced to provide the necessary information for determining compliance to FIPS,

f. Notify the testing laboratory of deficiencies and specifiy requirements to correct these deficiencies,

g. Establish criteria and procedures for testing laboratories to both obtain and maintain accreditation.

4. Test Method, Procedures, Reports and Certificates

ICST is responsible for providing and implementing conformance testing programs for FIPS. The key elements of a conformance testing program are the test method, validation procedures, test report and validation certificate. The following requirements apply when establishing conformance testing programs for FIPS.

4.1 Conformance Testing Elements

A. Test Method

1. ICST shall recognize one test method for each FIPS.

2. The test method includes the test suite, support tools, and documentation.

a. Test suite shall be designed, where feasible, to be self-checking, modular to allow for testing standard options or levels, and have documented test objectives for each test.

b. The test method shall include support tools where appropriate for controlling and automating the conformance testing process. As a minimum, the following automated functions shall be considered:

(1) A mechanism for controlling the setup, integrity and systematizing of the test suite for the implementation under test, and

(2) A mechanism for automating the evaluation of test results.

c. The test method shall include full documentation for the following where applicable:

(1) Installing and executing the test suite, (2) Evaluating the test results for accuracy and completeness, and

(3) Installing and executing the test method support tools.

3. An assessment of the standard and the test suite shall be made to determine what parts of the standard are tested by the test suite. The results of this assessment shall be documented with the test method. Conversely, those areas of the standard that are not tested by the test suite shall be documented. This documentation shall be updated with each new release of the test suite.

4. The test method shall be used solely for the purpose of assessing conformance to the FIPS. The test method should *not* include tests or procedures for assessing other product characteristics such as performance (capacities, speed, usefulness, or vendor support), standard refinement, or product quality. If the test method contains tests not used in determining conformity, then that part of the test method shall be clearly identified, and those tests shall not be used as the basis for obtaining a validation certificate.

5. ICST shall insure that all test methods are adequately tested before being used as the basis for a validation certificate.

6. Before adoption by ICST, and test method shall undergo a "field test" period for public review and comment. This public review period allows ICST to assess suitability of the test method for testing conformance to FIPS. Notice of the availability of the test method for review shall be placed in the **Federal Register**.

The public review time period for the test method shall be determined by ICST.

7. Test methods shall be accessible and available to all potential users and interested parties (not unduly restriced from use by manufacturers, academia, government, or other users due to legal considerations or cost).

8. For test methods not owned by ICST, ICST shall arrange with the test method owner to evaluate, copy, withdraw from and supplement the test method as necessary to provide for the testing for conformance to FIPS. When changes to the test method are determined necessary, the owner shall be notified of the needed changes. Any comments and recommendations resulting from use of the test method

will be collected and forwarded to the owner of the test method for review.

9. Unless otherwise waived by the Director of ICST, provision for maintaining the test method shall be made before validation use.

10. Test Method Control.

When required, ICST shall insure that the test method is properly maintained for testing conformance to FIPS, and that this maintenance is coordinated with others as needed.

The functions associated with control and maintenance of the test method include procedures for:

a. Handling challenges to the test method,

b. Approving changes to the test method,

c. Testing and release of new versions of the test method.

d. Reporting test method problems,

e. Assisting testing laboratories, clients and others in proper use of the test method, and

f. Coordinating with the respective standard maintenance committee and others as appropriate.

Where the same test method is used by other certification systems, or it is maintained by an organization other than ICST, ICST will obtain coordination among the organizations involved.

B. Validation Procedures

The validation procedures define the steps and criteria by which FIPS conformance testing is done in order for a validation certificate to be issued. ICST specifies the validation procedures for each conformance testing program.

The following requirements apply to validation procedures.

1. Notice of the availablity of new or major revisions to validation procedures shall be published in the Federal Register for comments. [A copy shall be sent to DOC General Agreement on Trade and Tariff Secretariat.]

2. The procedures for handling client disputes on the test method or validation procedures shall be specified.

3. The procedures followed by ICST for interpretation of a FIPS shall be specified. For software standards, the procedures described in the FIPS PUB 29–2, Interpretation Procedures for Federal Information Processing Standards for Software, shall be followed when requesting technical interpretations.

4. The steps that the client shall follow in order to have a product tested and to obtain a validation certificate shall be specified.

5. The statements or information that the client provides in a declaration of conformance for receiving a valiation certificate shall be specified.

6. Whenever appropriate, the testing, procedures, or information that is required in order for the client to have equivalent configurations or maintained products recognized as having validation status shall be specified.

C. Test Reports

1. The test report shall state the specific environment in which the testing was done.

2. The test report shall indicate all deviations from the standard found in the product as a result of using the test method.

3. The test report shall state all facts and results related to testing of the subject product.

4. The test report shall allow for a foreword and statement of disclaimer based on national requirements, e.g., "The ICST may make full and free public disclosure of the Test Report in accordance with the 'Freedom of Information Act' (5 U.S.C. 522). The results of this validation are only for the purpose of satisfying United States Government requirements and apply only to the computer system, operating system release and software product identified in the Test Report. The Test Method is used to determine, insofar as is practical, the degree to which the subject product conforms to the FIPS. Information for this report was provided by the supplier of the product. The United States Government does not represent or warrant that the subject product has no nonconformities to the FIPS other than those presented in the Test Report."

5. Test reports that serve as the bases for a validation certificate shall be available for public review.

D. Validation Certificate

A validation certificate is formal notification by ICST that the product has been tested in accordance with ICST prescribed validation procedures, and that the test report indicates product compliance with the FIPS.

A validation certificate does not imply or warrant acceptable use of a product for any given application, nor does it indicate acceptance of the product regarding efficiency or performance. Conformance testing is strictly a means of determining compliance that leads to a judgment of conformity based on the test method used.

A validation certificate is *not* an unequivocal endorsement of complete conformance of a product to the standard or that the subject product has no nonconformities to the standard, other than those identified by the test method.

1. Certification Criteria

ICST shall provide the criteria for issuing a Certificate of Validation.

The certification criteria for a given FIPS may optionally permit a certificate to be issued for implementations that do not pass *all* the test objectives. When the certification criteria allows for this type of certificate, a "Conditional" Certificate of Validation shall be issued in lieu of a Certificate of Validation. The "Conditional" Certificate of Validation gives notice to the user of the product that it was formally tested, but use of the product is conditional on the user's acceptance of the product with the detected conformance limitations. The certification criteria for this type of certificate shall normally require the product to be corrected and retested (i.e., satisfy the criteria for receiving an unconditional Certificate of Validation) within a specified period of time.

The effect of modifications to the product with regard to its certification status shall be specified.

When applicable, the criteria for recertification of products shall be specified, e.g., certificate renewal criteria without retesting may be considered if all the following are present:

a. No deviations from the standard were found during the last validation;

b. The client certifies that there were no changes to the system under test or implementation under test; and

c. There were no changes made to the test method.

The validation certificate may include an expiration date when a change to either the product or the test method could effect product compliance. To keep the certification cycle synchronized with the current version of the test method, the certification period and the planned test method release cycle should be the same (i.e., if the test method release cycle is planned once a year, the effective period of the certificate should be no longer than 12 months).

2. Certificate Content

The validation certificate shall, where appropriate:

a. Fully identify the product tested, including version designation where applicable.

b. Identify the test configuration or test environment (e.g., Hardware and Operating System) that was used for the conformance testing.

c. Identify the standard(s) tested and the applicable portion(s) thereof that is the basis for the certificate.

d. Identify the testing laboratory that performed the testing.

e. Identify the test method used.

f. Provide an expiration date of the validation certificate.

g. Indicate the areas, or degree of nonconformance when a "Conditional" Certificate of Validation is issued.

h. Provide a statement indicating the scope and limitations associated with the certificate.

4.2 Testing Program Implementation and Administration

The following policy applies to implementation and administration of a conformance testing program.

a. ICST shall provide for a validation "trial use" period to verify the accuracy and completeness of the validation procedures. During this period the full validation process will be performed and evaluated. The experience gained will be used to refine the test method, validation procedures, and certification criteria. This experience will also serve as the basis for development of the technical criteria for accrediting testing laboratories. The number of validations performed to obtain the necessary experience shall be determined by ICST. Typically, a "trial use" period should be used whenever new or major enhancements are made to the test method, or major changes are made to the validation procedures.

b. Where feasible, test methods owned by ICST shall be deposited with National Technical Information Service (NTIS) for public and Government distribution.

c. ICST may assess a fee for the test method to help recover costs of development and for enhancement of the test method.

d. ICST shall administer testing of products for conformance to the FIPS where there is no other suitable means available.

e. ICST may require reimbursement of expenses incurred in doing validations. When reimbursement is required, funding for the validation shall be provided before ICST begins work on the project.

f. For validations performed by ICST, the results of a validation as presented in the final test report shall be publicly available. If the client specifically requests that the testing be held confidential, ICST will *not* disclose information concerning the validation scheduling, testing status or information on preliminary test results. All inquiries concerning this information shall be referred to the client.

g. ICST may assess a certification fee. The certification fee covers the administrative cost of evaluating the test report, confirming adherence to the certification criteria and issuing the validation certificate. The certification fee may include a charge for research and maintenance of the test method. The amount of this fee is determined by ICST.

h. Until ICST approved test method, validation procedures and validation services are available, government agencies acquiring products and services in accordance with FIPS may wish to specify their own testing for conformance. The tests to be administered and the testing organization used are at the discretion of the agency or agency acquisition authority.

5. Recognition of Other Conformance Testing Activities

ICST will seek to provide economical and adequate conformance testing for the FIPS. In meeting this objective, ICST will consider the use of existing test methods, validation procedures, testing laboratories and certification systems. It is not the intent of ICST to duplicate conformance testing activities where those activities meet ICST requirements. Thus ICST will coordinate with other organizations to harmonize conformance testing requirements.

Recognition of other conformance testing activities may be achieved in many areas. The possible areas include:

a. Test method research and development,

b. Testing laboratory (conformance testing services),

c. Test method administration (maintenance),

d. Validation procedures,

e. Tet reports, or

f. Certificates.

ICST may use any of the following methods for formally recognizing the conformance testing activities of other organizations:

a. Bilateral, unilateral or multilateral agreement,

b. Contract,

c. Accreditation,

d. Memorandum of Understanding, or

e. Agreement or contract requesting ICST to provide assistance.

Any of the above methods is acceptable as long as it does not conflict or compromise ICST's authority in carrying out its responsibilities. Further, the above methods shall not violate any Federal Government regulation.

Unless otherwise approved by the Director of ICST, agreements concerning conformance testing shall not:

a. Grant exclusive rights to others in fulfilling its responsibilities in the areas described above.

b. Unilaterally agree to adopt a product or service that conflict with, or that does not allow for changes to meet, ICST requirements.

Appendix

Acceptance Testing: Formal testing conducted to determine whether or not a system satisfies its acceptance criteria and to enable the customer to determine whether to accept the system. Formal testing includes the planning and execution of several kinds of tests (e.g., functional, volume, performance tests) to demonstrate that the implementation satisfies the customer requirements.

Certificate of Validation: A Certificate authorized by authority of the Director of ICST that formally acknowledges compliance of a product to the FIPS.

Certification Body: An impartial body, governmental or nongovernmental, possessing the necessary competence and reliability to operate or accredit operation of a cetification system, and in which the interests of all parties concerned with the function of the system are represented.

Certification System: A system having its own rules of procedure and management for carrying out conformance certification.

Client: An organization or person requesting validation of a product.

Compliance: The state in which correct test results were achieved from the test objectives in the applicable version of the test method as required by the applicable validation procedures. [Note: for purposes of this document, compliance is a practical measure of conformity.]

"Conditional" Certificate of Validation: A certificate acknowledging that the product has undergone conformance testing, and the product did not meet all of the conformity criteria.

Conformance Testing: The testing of a candidate product for the existence of specific characteristics required by a standard specification; testing the extent to which an implementation is a conforming implementation.

Conformity: Fulfillment by a product process or service of all requirements specified [ISO/IEC Guide 2–1986].

Declaration of Conformance: The action by which a client declares under his sole responsibility, by means of a "declaration of conformance," that the product is in conformity with designated standards or other technical specifications, without being under the

procedures of a third-party certification system.

Equivalent Configuration: Any configuration for which compliance is achievable using the same test method version used in validation of the implementation under test.

Implementation Under Test (IUT): A product being studied under testing for one or more characteristics of the standard specification.

Interoperability Testing: The testing of a candidate product for its ability to successfully operate or communicate with another component in the same, or different, information system.

National Voluntary Laboratory Accreditation Program (NVLAP): A voluntary system for accrediting laboratories found competent to perform specific testing operations. It is part of the National Bureau of Standards Office of Associate Director for Industry and Standards. NVLAP does not confer product or test data certification.

Product: An implementation of the FIPS specification.

Proficiency Testing: Determination of laboratory testing performance by means of comparison of tests on the same or similar items by two or more laboratories in accordance with predetermined conditions.

System Under Test (SUT): The computer hardware, software and communication network required to support the IUT.

Test Method: A defined technical procedure to determine one or more specified characteristics of a material or product. For the purposes of this document a test method includes the test suite, testing support tools and documentation (including technical test procedures).

Test Report: Document that presents test results and other information relevant to a test [ISO/IEC Guide 2–1986].

Test Suite: That part of the test method that consists of the set of tests designed to assess conformity of an implementation to the FIPS.

Testing Laboratory: A facility properly equipped and staffed to conduct product testing.

Validation: The process of checking the conformity of an implementation of a standard to its standard specification through conformance testing, and when compliance is demonstrated, issuing a validation certificate.

Validation Certificate: A Certificate of Validation or "Conditional" Certificate of Validation.

[FR Doc. 88–17422 Filed 8–2–88; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

The North Pacific Fishery Management Council's Bycatch Committee will convene a public meeting, August 22, 1988, at 1 p.m., at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way NE., Building 4, Room 2079, Seattle, WA, to review the final draft of the Bering Sea bycatch amendment, review a draft of the Kodiak time/area closure plan to protect king crab, and to continue development of a directed fishing definition. The public meeting will adjourn on August 26, 1988.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Deputy Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Date: July 29, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–17472 Filed 8–2–88; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council at its July 13–14, 1988, meeting adopted recommendations contained in the final report of its Limited Entry Committee. Among the recommendations, one was that the Pacific Council should form a committee to plan public information activities on limited entry, including media information, mailings, and workshops. The objectives will be to educate and to solicit input on limited entry from the public. Therefore, the committee's first public meeting will convene on August 16, 1988, at 10 a.m., at the Council's Office (address below), and will adjourn on August 17.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Date: July 29, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–17473 Filed 8–2–88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services; Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the responses to the recommendations, requests for information, and continuing concerns made by the Committee at the 1988 Spring Conference; review the Subcommittee Issue Agenda; discuss current issues relevant to women in the Services; and finalize the program for the next semiannual conference scheduled for November 13–17, 1988. All meeting sessions will be open to the public.

DATE: October 3, 1988, 9:30 a.m.–5:00 p.m.

ADDRESS: SecDef Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Ilona E. Prewitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (202) 697–2122.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 28, 1988.

[FR Doc. 88–17423 Filed 8–2–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Prepare Environmental Impact Statement (EIS) and To Initiate the Public Scoping Process for the Construction and Operation of a Chemical Munitions Disposal Facility at Tooele Army Depot, UT

AGENCY: Department of the Army, DOD.

ACTION: Notice of intent.

SUMMARY: This announces the Notice of Intent to prepare an EIS on the potential impact of the design, construction, operation and closure of the proposed chemical agent demilitarization facility at Tooele Army Depot, Utah. The proposed facility will be used to demilitarize all chemical agents and munitions currently stored at the Tooele Army Depot. Potential environmental impacts will be examined for alternative locations of the on-site incineration facility and the "no action" alternative. The "no action" alternative is considered to be deferral of demilitarization with continued storage of the agents and munitions at Tooele Army Depot.

SUPPLEMENTARY INFORMATION: In its Record of Decision (53 FR 38, pp. 5816–17) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program, the Department of the Army selected on-site disposal by incineration at all eight chemical munitions storage sites within the continental United States as the method by which it will destroy its lethal chemical stockpile. In compliance with the National Environmental Policy Act (NEPA), section 102(2)(c), the Army determined that an EIS will be prepared to assess the site-specific health and environmental impacts of on-site incineration of chemical agents and munitions at Tooele Army Depot. The first phase of this effort will entail the collection and analyses of detailed site-specific information to ensure that the programmatic preferred alternative (on-site incineration) remains valid for Tooele Army Depot. A separate report summarizing this effort will be published prior to preparation of the draft EIS for Tooele Army Depot. The draft EIS should be available in the fall 1988. Upon completion of the draft EIS, public notice of its availability for review will be announced and interested persons may provide comment on that document.

Notice of Public Meeting

Notice is further given of the Army's intention to initiate the scoping process to aid in determining the significant issues related to the proposed action at Tooele Army Depot. Public as well as federal, state and local agency participation and input are desired. An initial scoping meeting will be held on August 18, 1988, at 7:00 p.m., at the Tooele Army Depot post theater, Utah. Interested individuals, governmental agencies and private organization are encouraged to attend and submit information and comments for consideration by the Army.

FOR FURTHER INFORMATION CONTACT: The Program Executive Officer-Program Manager for Chemical Demilitarization, ATTN: AMCPEO–CDI (Ms. Marilyn Tischbin), Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final EIS should contact the Program Executive Officer-Program Manager at the above address.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (I&L).

[FR Doc. 88–17395 Filed 8–2–88; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88–41–NG]

The Consumers' Gas Co., Ltd.; Application To Export Natural Gas to Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 12, 1988, of an application filed by The Consumers' Gas Company Ltd. (Consumers Gas) requesting blanket authorization to export up to 100 Bcf of natural gas from the United States to Canada for short-term and spot market sales over a two-year period beginning on the date of first delivery.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than September 2, 1988.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9590

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–6667

SUPPLEMENTARY INFORMATION: Consumers Gas, an Ontario, Canada, gas utility that is headquartered in Toronto, Canada, seeks authorization to export U.S. gas supplies exclusively for its own system supply. Consumers Gas does not plan to export gas as an agent for other parties. While Consumers Gas has negotiated two gas purchase agreements with U.S. suppliers, it proposes to purchase domestic natural gas from a variety of other suppliers.

The terms of each arrangement would be negotiated in response to market conditions. Consumers Gas intends to use existing transmission systems and would not require the construction of new or separate facilities in order to export the natural gas. Consumers Gas also intends to comply with the ERA's quarterly reporting requirements.

This export application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204–111. The decision on whether this export of natural gas is in the public interest will be based upon the domestic need for the gas and other matters deemed to be appropriate by the Administrator, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing parties to freely negotiate their own trade arrangements. The applicant asserts that current excess gas supplies evidence a lack of need for this gas to serve regional and national markets. The applicant further asserts that this export arrangement would promote competition and have a beneficial impact on the balance of trade. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this export it may permit the export of the gas at any existing point of exit and through any existing transmission system.

Consumers Gas requests that an authorization be granted on an expedited basis. An ERA decision on Consumers Gas' request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene

or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered an determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and writtem comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., September 2, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Consumers Gas' application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 26, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–17489 Filed 8–2–88; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 88–26–NG]

Portland General Electric Co.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Portland General Electric Company (Portland) blanket authorization to import natural gas. The order issued in ERA Docket No. 88–26–NG authorizes Portland to import up to 40 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–08–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 27, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–17490 Filed 8–2–88; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 88–29–NG]

Premier Enterprises, Inc.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Premier Enterprises, Inc. (Premier), blanket authorization to import Canadian natural gas. The order issued in ERA Docket No. 88–29–NG authorizes Premier to import up to 73 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 27, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–17491 Filed 8–2–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER–88–530–000 et al.]

Kansas Gas and Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

August 1, 1988.

Take notice that the following filings have been made with the Commission:

1. Kansas Gas and Electric Company

[Docket No. ER–88–530–000]

Take notice that on July 15, 1988, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed Short-Term Participation Power Service, Service Schedule PP, between KG&E and City of Erie, Kansas.

This filing is necessary because Erie desires to purchase power and energy on a short-term basis to assure its ability to meet the needs of its municipal system. KG&E has requested an effective date of July 1, 1988.

Copies of this filing were served on Erie and the Utilities Division of the Kansas Corporation Commission.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Niagara Mohawk Power Corporation

[Docket No. ER–88–529–000]

Take notice that on July 22, 1988, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a proposed change to Niagara Mohawk

Rate Schedule No. 142, an agreement between Niagara Mohawk and the Long Island Lighting Co. (LILCO).

Rate Schedule No. 142 provides for the wheeling of certain loads by Niagara Mohawk to LILCO. The proposed change is the addition of 100 MW of firm power purchased by LILCO from the New York State Electric & Gas Co. (NYSEG) to be wheeled by Niagara Mohawk from June 1, 1988 until September 16, 1988. Niagara Mohawk proposes an effective date of June 1, 1988 and requests waiver of the Commission's notice requirements. In support thereof, Niagara Mohawk states that the service commenced as of June 1, 1988 at LILCO's request and that LILCO has consented to this proposed effective date.

Copies of this filing were served upon the Public Service Commission of the State of New York and the Long Island Light Company.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Union Electric Company

[Docket No. ER-88-527-000]

Take notice that on July 21, 1988, Union Electric Company (Union) tendered for filing Service Schedule E to the Interconnection Agreement dated November 1, 1969 between the Tennessee Valley Authority and Central Illinois Public Service Company, Illinois Power Company and Union.

Said Schedule provides for Term Energy Exchange and establishes the terms and conditions of such exchange.

Union requests that the filing be permitted to become effective May 18, 1988.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Arkansas Power and Light Company

[Docket No. ER-88-526-000]

Take notice that on July 20, 1988, Arkansas Power and Light Company (AP&L) tendered for filing the Second Amendment to the Power Coordination, Interchange and Transmission Service Agreement between AP&L and the City of Osceola, Arkansas (City). The Amendment provides for the addition of one Point of Delivery, the combination of two Points of Delivery and an increase in capacity made available at one Point of Delivery.

These changes are being made at the request of City to enable City to provide a dedicated Point of Delivery to one of City's retail customers.

AP&L requests that the Commission waive any requirements with which AP&L has not already complied.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER-88-525-000]

Take notice that on July 20, 1988, Commonwealth Edison Company (Edison) tendered for filing a new Interconnection Agreement (Agreement), dated June 15, 1988, between Edison and Central Illinois Light Company (CILCO). The new Agreement replaces an existing Agreement between the Parties. The Agreement provides Service Schedules for the exchange of Limited Term Power, Emergency Energy, Economy Energy, Short Term Power, and General Purpose Energy.

Copies of this filing were served upon the Illinois Commerce Commission and CILCO.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER88-524-000]

Take notice that on July 20, 1988, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a supplement to FERC Rate Schedule No. 45, its interconnection agreement with Upper Peninsula Power Company (UPPCO). The supplement indicates the negotiated capacity charge associated with the provision of Limited Term Power by Wisconsin Electric to UPPCO from January through June, 1988. The capacity charge varies each month to ensure that the same level of charges is rendered to UPPCO as if service was rendered under Service Schedule G—Presque Isle Power.

Wisconsin Electric requests an effective date of January 1, 1988. According to Wisconsin Electric, UPPCO joins in the requested effective date. As a result, Wisconsin Electric requests waiver of the Commission's notice requirements.

Copies of the filing have been served on UPPCO, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Black Hills Power and Light Company, an assumed business name of Black Hills Corporation

[Docket No. ER88-523-000]

Take notice that on July 20, 1988, Black Hills Power and Light Company, an assumed business name of Black Hills Corporation (Black Hills) tendered for filing an agreement between Black Hills and Pacific Power & Light Company, an assumed business name of PacifiCorp (Pacific), which provides for the sale of energy by Black Hills to Pacific during a two year period commencing July 1, 1988.

Black Hills requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 1, 1988, this being the date on which service commenced.

Copies of the filing have been supplied to Pacific and the regulatory commissions of the states of Montana, South Dakota and Wyoming.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER88-522-000]

Take notice that on July 18, 1988, Union Electric Company tendered for filing Fifth Amendment and Third Revised Schedule C dated both as of June 10, 1988 modifying the September 18, 1979 Interconnection Contract between City of Columbia, Missouri, and Union Electric Company.

Said Amendment and Schedule modifies the daily reservation charge for Short-Term Non-Firm and provides for transactions for periods of greater than twelve months and extends the term of said Contract to December 31, 2000.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Montana Power Company

[Docket No. ER88-521-000]

Take notice that on July 18, 1988, Montana Power Company (Montana) tendered for filing summaries of sales made under the Company's FERC Electric Traffic, 2nd Revised Volume No. 1, during July 1987 through December with cost jurisdictions for the rates charged.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

10. Alleghany Generating Company

[Docket No. ER88-533-000]

Take notice that on July 26, 1988, Allegheny Generating Company (AGC) tendered for filing a proposed change in its Rate Schedule FERC No. 1. The proposed change would increase revenues to AGC by about $9,200,000 based on the twelve-month period ended September 30, 1989. The proposed effective date for the increased rates is October 1, 1988.

The change proposed is for the purpose of reflecting changed conditions affecting the rate of return on equity AGC should be permitted to earn.

Copies of the filing were served upon the jurisdictional customers, the Maryland Public Service Commission, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the State Corporation Commission of Virginia, and the West Virginia Public Service Commission, and upon all other parties participating in Docket Nos. EL86–37–000 and EL86–38–000.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER88–528–000]

Take notice that on July 21, 1988, Northeast Utilities Service Company (NUSCO) tendered for filing proposed changes with respect to transmission service agreements between the Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), Holyoke Water Power Company (HWP), City of Holyoke, Massachsuetts Gas & Electric Department (Holyke), and Westfield Gas and Electric Department (Westfield).

The proposed changes would not increase rates, but would (1) extend the termination of the Rate Schedules, (2) change the amounts of service provided under the Rate Schedules, and (3) render null and void the provisions regarding the State of Connecticut Gross Earnings Tax.

Pursuant to § 35.19 of the Commission's Regulations and in order to conform with the requirements of § 35.13 (b) and (c), NUSCO incorporates hereto by reference the information previously submitted to the Commission under FERC Rate Schedule Nos. CL&P 219, WMECO 229, and HWP 37 (Agreement A) and FERC Rate Schedule Nos. CL&P 290 and WMECO 228 (Agreement B).

NUSCO requests that the Commission waive its standard notice periods and permit the rate schedule changes to become effective as of February 1, 1983.

NUSCO states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, HWP, Holyoke and Westfield.

NUSCO further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

12. Pacific Gas and Electric Company

[Docket No. ER–352–000]

Take notice that on July 26, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing changes to a Rate Schedule covering services rendered by PG&E under the agreement entitled, "Interconnection Agreement between Pacific Gas and Electric Company and the City of Santa Clara" (Interconnection Agreement). The Interconnection Agreement was initially filed under Docket No. ER84–6–000 and was assigned FERC Rate Schedule No. 85.

The Interconnection Agreement provides for firm transmission service between Points of Receipt and Points of Delivery as shown in its Exhibit A–4. The rate schedule change is in the form of a revised Exhibit A–4. The revisions to Exhibit A–4 include changing the maximum rates of delivery between certain points of receipt and delivery, and adding another point or receipt. These revisions are necessary to reflect the rerating of NCPA's two geothermal plants, the change in Sacramento Municipal Utility District's assignment on the Pacific Intertie, new agreements to provide firm transmission for Coldwater Creek geothermal plant, reallocation of firm tramismission for small hydro, and the revision of the forecast of Partial Requirements.

PG&E has requested waivers to allow the revised exhibit to be effective retroactively to September 1, 1987.

Copies of this filing have been served upon Santa Clara and the California Public Utilities Commission. In addition, copies of this filing are available for public inspection in a convenient form and place during normal business hours at PG&E's General Office in San Francisco and PG&E's Mission Trail Regional Office in San Jose.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Company

[Docket No. ER88–520–000]

Take notice that on July 15, 1988, New York State Electric & Gas Company (NYSEG) tendered for filing pursuant to § 35.13 of the regulations under the Federal Power Act, as a Supplement to its rate schedules, Letter Agreements with Connecticut Light and Power Company (CL&P), Central Hudson Gas & Electric Corporation (Central Hudson), and the New York Power Authority (NYPA), respectively. The agreements reflect the mutual agreement of NYSEG and the respective parties to an increase in the reservation change ceiling from $15.00 to $29.00 based on the latest calculation of Fixed Charges on NYSEG Generation. Service under these agreements commenced on January 1, 1988 and shall be terminated in writing by mutual agreement.

NYSEG has filed a copy of this filing with the respective parties and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that January 1, 1988 be allowed as the effective date of the filing.

Comment date: August 15, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secertary.

[FR Doc. 88–17474 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF86–1001–001 et al.]

Majave Cogeneration Co., L.P., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Majave Cogeneration Company, L.P.

[Docket No. QF86–1001–001]

July 27, 1988.

On July 13, 1988, Majave Cogeneration Company, L.P. c/o Westinghouse Electric Corporation, Power System Division, 1310 Beulah Road, Pittsburgh, Pennsylvania 15235 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the site of U.S. Borax's mine and refining processing facility in Boron, California. The facility will consist of a combustion turbine generator, a two pressure level heat recovery steam generator (HRSG), and a condensing/extraction steam turbine-generator. The extracted steam together with low pressure steam from the HRSG will be used in the U.S. Borax facility for borate processing operations. The net electric power production capacity of the facility will be 45 MW.

The original application was filed on August 22, 1986 by Louis G. Nannini and was granted on November 20, 1986 (37 FERC ¶62,131). The recertification is requested due to change in ownership. The ownership interest will be transferred from L.G. Nannini to Majave Cogeneration Company, L.P. which is a Delaware Limited Partnership. WESGEN Inc., a Wholly owned subsidiary of Westinghouse Electric Power Corporation will be the managing general partner.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. UtiliCorp United Inc.

[Docket No. ES88-48-000]

July 28, 1988.

Take notice that on July 21, 1988, UtiliCorp United Inc. (Applicant) filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to and including $100 Million of General Mortgage Bonds and for exemption from the compatitive bidding and negotiated placement requirements.

Comment date: August 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Vulcan/BN Geothermal Power Company

[Docket No. QF85-199-001]

August 1, 1988.

On July 15, 1988, Vulcan/BN Geothermal Power Company, a Nevada Partnership (Applicant) of 7001 Gentry Road Calipatria, California 92233 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located in the Niland Area of Imperial County, California, uses geothermal energy obtained from the Salton Sea Known Geothermal Resource Area. The facility consists of one high pressure and one low pressure condensing steam turbine generators. The primary energy source will be natural geothermal water, steam, or brine. The net electric power production capacity of the facility will be 34 MW.

Vulcan Power Company ("Vulcan") and BN Geothermal, Inc. ("BNG") each own a 50% interest in Vulcan/BN Geothermal Power Company. BNG is a wholly-owned subsidiary of Burlington Resources, Inc., a Delaware corporation ("BRI"). BRI plans to sell all of the shares of BNG to Mission Energy Company ("Mission"), which is a wholly-owned subsidiary of the Mission Group, which is in turn a wholly-owned subsidiary of SCEcorp. SCEcorp owns all of the outstanding voting stock of Southern California Edison Company, an investor owned electric utility. Vulcan is a wholly-owned subsidiary of Magma Power Company ("Magma"). Applicant states that neither Vulcan nor Magma are utility Company, however, since Magma stock is publicly traded, it is possible for electric utilities to establish ownership interest in the facility. Magma and subsidiaries of Magma and Mission, through Del Ranch, L.P., a California limited partnership, currently own a 34 MW (net) facility and which is located within one mile of the project.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17475 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-519-000 et al.]

Questar Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Questar Pipeline Company

[Docket No. CP88-519-000]

July 26, 1988.

Take notice that on June 27, 1988, as supplemented July 22, 1988, Questar Pipeline Company (Questar), 29 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP88-519-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to increase the maximum daily firm withdrawal rate from its Clay Basin storage field in Daggett County, Utah, for a period in excess of two years, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that by Commission order issued in Docket No. CP81-325-000, 19 FERC ¶61,079 (1982) Questar was authorized to provide contract storage service from its Clay Basin underground storage reservoir pursuant to Storage Service Rate Schedule S-3 and construct and operate injection/withdrawal wells and appurtenant facilities required to provide such service. It is asserted that Questar's firm obligation to provide the authorized storage service was limited to: (a) Injecting a maximum of 300 MMcf per day for no more than 225 days during the injection period, (b) withdrawing on a firm basis up to a maximum of 75 MMcf per day for no more than 150 days during any withdrawal period and (c) seasonally delivering (beyond the 1983 heating season) up to 7.5 Bcf. It is stated that Questar is requesting authority to increase the authorized maximum daily withdrawal rate from its Clay Basin storage field from 75 MMcf of natural gas to 125 MMcf of natural gas for a period in excess of two years.

It is asserted that the proposed additional maximum firm daily withdraw level would have minimal or no impact on the peak day or annual deliveries of either Questar's Storage or Transmission Division's since the required peak-day volumes are currently available on a best-efforts basis. It is alleged that Questar anticipates revising its FERC Gas Tariff, Original Volumes No. 2, Rate Schedule S-3 as necessary to reflect any authorization received under the requested authority.

It is explained that no additional facilities are required to effect the

proposed increased firm daily withdrawal rate of natural gas from Clay Basin and that the proposal would have no adverse impact on the current level of services provided for Northwest Pipeline Corporation.

Comment date: August 16, 1988, in accordance with Standard Paragraph F at the end of this notice.

Natural Gas Pipeline Company of America

[Docket No. CP88-578-000]

July 27, 1988.

Take notice that on July 14, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-578-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Sun Operating Limited Partnership (Sun), a producer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis up to 182,000 MMBtu of gas on a peak day plus excess volumes pursuant to the overrun provisions of its Rate Schedule ITS, and 36,500,000 MMBtu on an annual basis for Sun. It is stated that Natural would receive the gas for Sun's account at various existing receipt points in Texas, offshore Texas, Louisiana and offshore Louisiana. Natural then proposes to deliver equivalent volumes of gas in Louisiana and Illinois. It is asserted that the transportation would be effected using existing facilities and would not require any construction of additional facilities. It is explained that the service commenced May 17, 1988, under the automatic authorization provisions of § 284.223 of the Commission's Regulations.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Gas Utility District No. 1 of Tangipahoa Parish, Louisiana

[Docket No. CP88-555-000]

July 27, 1988.

Take notice that on July 8, 1988, Gas Utility District No. 1 of Tangipahoa Parish, Louisiana (Applicant), 2050 Jerry Wilde Road, Ponchatoula, Louisiana 70454, filed in Docket No. CP88-555-000 an application pursuant to section 7(a) of the Natural Gas Act for an order directing Southern Natural Gas Company (SNG) to establish an interconnection of its facilities with those proposed by Applicant and to sell and deliver up to 704 Mcf of natural gas per day for the first year and up to 880 Mcf of natural gas per day by the third year for resale and distribution to approximately 808 customers in the proposed service area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant explains that the proposed service would be provided to an area east of Amite, Louisiana, including the small communities of Uneedus, Osceola, Husser and Holton, along with rural areas that have sufficient development. Applicant estimates that by the third year of service there would be 800 residential customers, 7 commercial customers, and one school.

Applicant proposes to receive service from one meter station to be built by SNG and located in section 14, T4S, R8E, where SNG's transmission line crosses Louisiana Highway 445. Applicant states that the actual meter station would be at a site mutually agreeable to both parties. It is stated that the project would cost approximately $1,220,000 and would be financed through a 25-year loan from the United States Department of Agriculture Farmers Home Administration. Applicant further proposes that SNG provide this service at a cost based on SNG's Rate Schedule G-1.

Comment date: August 17, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP88-567-000]

July 27, 1988.

Take notice that on July 12, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-567-000, a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a one-inch sales tap on United's existing 2-inch Poplarville, Mississippi lateral for supplying natural gas to the residence of Mr. David Burrus, who would be served through Entex, Inc. (Entex), a local distributor under its blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the new sales tap would allow Entex to deliver an estimated average of 1.9 Mcf/d of natural gas to Mr. Burrus without detriment or disadvantage to its other existing customers and without an increase in Entex's contractual requirements.

United provides Entex's its gas requirements for resale under United's Rate Schedule DG-N, it is explained.

It is further stated that Entex would reimburse United for the cost of installing the tap.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP88-590-000]

July 27, 1988.

Take notice that on July 18, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-590-000, a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a one-inch sales tap on United's existing 6-inch Boggy Creek/Huntsville main line near Huntsville, Texas, Walker County to supply natural gas to Entex Inc. (Entex), a local distributor, for resale to the Walker County Barn for residential and commercial usage under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the new sales tap would allow Entex to deliver an estimated average of 1.6 Mcf/d of natural gas to the Walker Barn without detriment of disadvantage to its other existing customers and without an increase in Entex's contractual requirements.

United provides Entex's its gas requirements for resale under United's Rate Schedule G-N, it is explained.

It is further stated that Entex would reimburse United for the cost of installing the tap.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP88-625-00]

July 27, 1988.

Take notice that on July 25, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-625-000 a request pursuant to §§ 157.205 and 284.223 of the

Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for N-GAS, Inc. (N-Gas), a marketer, under Natural's blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

Natural proposes to transport on an interruptible basis up to 15,000 MMBtu on natural gas equivalent per day, plus additional quantities or overrun gas, on behalf of N-Gas pursuant to a transportation agreement dated March 24, 1988 between Natural and N-Gas. Natural would receive gas at various existing points of receipt on its system in Oklahoma, Texas, New Mexico, Kansas, Iowa and Illinois and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at various existing points of delivery in Illinois, Arkansas, New Mexico, Iowa, Kansas, Texas and Louisiana.

Natural further states that the estimated average daily and annual quantities would be 6,000 MMBtu and 2,190,000 MMBtu, respectively. Service under § 284.223(a) commenced on May 27, 1988, as reported in Docket No. ST88–4780, it is stated.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. It no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. It a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17429 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP88–601–000 et al.]

Southern Natural Gas Co. et al. Natural Gas Certificate Filings

July 29, 1988.

Take notice that the following filings have been made with the Commission:

[Docket No. CP88–601–000]

Take notice that on July 21, 1988, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35303–2563; filed in Docket No. CP88–601–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Amax Metals Recovery, Inc. (Amax) under the authorization issued in Docket No. CP88–601–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern would perform the proposed transportation service for Amax, an end user located in Louisiana pursuant a service agreement dated May 31, 1988. It is stated that the term of the service agreement is for a primary term of one month, to continue and remain in effect for successive terms of one month unless canceled by either party. Southern proposed to transport on a peak day up to 4,000 MMBtu; on an average day 2,600 MMBtu; and on an annual basis 949,000 MMBtu of natural gas for Amax. Southern proposes to receive the gas at various receipt points in Texas, Louisiana , Mississippi, and Alabama for delivery to Amax at its plant in Louisiana. Southernm assets that no new facilities are required to implement the proposed service.

Southern states that it would perform such transportation service for Amax pursuant to its Rate Schedule IT. It is further stated that Southern may agree from time to time to discount the rate charged Amax for transportation services in accordance with the provisions of Rate Schedule IT. It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.23(a)(1) of the Regulations. Southern commenced such self-implementing service on June 2, 1988, as reported on Docket No. ST88–4576–000.

Comment date: September 12, 1988, in accordance with standard Paragraph G at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP88–622–000]

Take notice that on July 22, 1988, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP88–622–000 a reqeust pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install 13 new delivery points for existing wholesale customers under the certificate issued on Docket No. CP83–76–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to construct and operate the facilities necessary to provide 13 additional points of delivery as listed below.

Wholesalecustomer	Commercial	Residential	Industrial	Annual Vol. (Dth)
Columbia Gas of Kentucky, Inc.		1	1	100,150
Columbia Gas of Ohio, Inc.	1	5		51,438
Dayton Power and Light Company		1		6,030
Mountaineer Gas Company		4		600

Columbia indicates that the volumes of gas that would be delivered through the proposed faiclities would be within the currently authorized levels of service. It is stated that any sales made though the proposed points of delivery would be under Columbia's Rate Schedule CDS. Columbia states that there would be no impact on its existing peak day and annual obligations to its customers as a result of the proposed delivery points.

Comment date: September 12, 1988, in accordance withn Standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP88–558–000]

Take notice that on July 11, 1988, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP88–558–000, an application pursuant to § 157.205 and 157.212(a) of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) to increase the measurement capacities of two existing delivery points to Mississippi Valley Gas Company (MVG) by the installation of an additional 2-inch orifice meter run at each delivery point under the authorization issued to it in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the Request on file with the Commission and open to public inspection.

Texas Gas states that currently it sells natural gas to MVG pursuant to a service agreement dated September 1, 1970. It is stated that the proposed expanded delivery points, located on Texas Gas's main lines in DeSoto County, Mississippi, 01.1 mile north of the city of Southaven, Mississippi, would have a capacity of 400 MMBtu per hour each in order for Texas Gas to alleciate measurement difficulties experienced in the past by Texas Gas at the two points.

It is explained that the expanded delivery points would not result in an increase in MVG's current contract demand or quantity entitlement. Furthermore, it is asserted that service to MVG through the expanded delivery points can be accomplished without detriment to Texas Gas's other customers. It is further stated that the increase in volumes of natural gas delivered by Texas Gas through the explanded delivery points proposed herein would be so minimal that it would have virtually no effect on Texas Gas's peak day and annual deliveries.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. CNG Transmission Corporation

[Docket No. CP88–574–000]

Take notice that on July 13, 1988, CNG Transmission Corporation (CNG Transmission), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP88–574–000 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and the Commission's Rules and Regulations thereunder, for an order issuing a certificate of public convenience and necessity authorizing a new sales service for requirements customers that have elected transportation without one hundred percent standby service, as more fully set forth in the application which is on file with the Commission and open to public inspection.

In its application, CNG Transmission proposes to offer a new sales service under Rate Schedule RQT that would permit customers to elect the desired amount of standby service or drop it completely, with a right to make annual downward adjustments to the amount of standby service elected. it is stated that the service proposed by CNG Transmission would be a requirements service similar to CNG Transmission's current Rate Schedule RQ, except that Rate Schedule RQT expressly relieves CNG Transmission of any obligation to provide service for quantities converted to transportation that exceed the customer's chosen amount of standby service.

CNG Transmission's application states that Rate Schedule RQT would include ratchet clauses that would automatically increase peak day and annual demand levels if those levels exceeded the Billing Demand set forth in the customer's service agreement by more than the limitations set forth in Rate Schedule RQT. The application further states that customers currently served under Rate Schedule RQ would be entitled to elect service under Rate Schedule RQT upon notice to CNG Transmission.

Comment date: August 19, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the infant notice by the Commission, file pursuant to Rule 214 of

the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17476 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-602-000 et al.]

United Gas Pipline Co. et al; Natural Gas Certificate Filings

July 28, 1988.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipeline Company

[Docket No. CP88-602-000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP88-602-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for E. I. DuPont de Nemours and Company (DuPont). United explains that service commenced June 23, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-4696. United explains that the peak day quantity would be 15,450 dekatherms, the average daily quantity would be 15,450 dekatherms, and that the annual quantity would be 5,639,250 dekatherms. United explains that it would receive natural gas for DuPont's account at points of receipt in the States of Louisiana and Mississippi. United states that it would redeliver the gas for DuPont's account at an existing interconnection between United and Shell's North Terrebonne Gas Processing Plant in Terrebonne Parish, Lousiana and a proposed interconnection between United and DuPont in St. John the Baptist Parish, Lousiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP88-593-000]

Take notice that on July 20, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP88-593-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add metering and appurtenant facilities at locations in Williams and Burke Counties of North Dakota under Williston Basin's blanket certificate issued in Docket No. CP82-487-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin proposes to construct metering and appurtenant facilities at the Williams County, North Dakota location so as to redeliver interruptible transportation gas to Western Gas Processors Ltd.'s Temple Plant for use in an oil enhancement program behind the plant. Williston Basin also proposes to add a meter and regulator station and appurtenant facilities in Burke County, North Dakota to redeliver interruptible transportation gas to Phillips Petroleum Company's McGregor Compressor Station.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP88-597-000]

Take notice that on July 20, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511 Houston, Texas 77252, filed in Docket No. CP88-597-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Citizens Gas Supply Corporation (Citizens). Tennessee explains that service commenced June 22, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-4707. Tennessee further explains that the peak day quantity would be 105,000 dekatherms, the average daily quantity would be 2,000 dekatherms, and that the annual quantity would be 730,000 dekatherms. Tennessee explains that it would receive natural gas for Citizens' account from points of receipt located in the States of Alabama, Louisiana, and Texas. Tennesse states that the points of delivery are located in the States of Alabama, Mississippi, Louisiana, and West Virginia. Tennessee further explains that locations of the ultimate delivery points of the gas are in the States of Ohio, New York, Alabama, Mississippi, Kentucky West Virginia, and Pennsylvania.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipeline Company

[Docket No. CP88-603-000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP88-603-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Seagull Marketing Services, Inc. (Seagull). United explains that service commenced June 22, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-4698. United explains that the peak day quantity would be 77,250 dekatherms, the average daily quantity would be 77,250 dekatherms, the average daily quantity would be 77,250 dekatherms, and that the annual quantity would be 28,196,250 dekatherms. United expalins that it would receive natural gas for Seagull's account at points of receipt in the State of Louisiana. United states that it would redeliver the gas for Seagull's account at an existing interconnection between United and Mississippi River Transmission Corporation in Ouachita Parish, Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipeline Company

[Docket No. CP88-604-000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251,

filed in Docket No. CP88–604–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Nerco Oil & Gas, Inc. (Nerco). United explains that service commenced June 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–4648. United explains that the peak day quantity would be 77,250 dekatherms, the average daily quantity would be 77,250 dekatherms, and that the annual quantity would be 28,196,250 dekatherms. United explains that it would receive natural gas for Nerco's account at points of receipt in the States of Mississippi and Louisiana. United states that it would redeliver the gas for Nerco's account at points of delivery in the State of Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipeline Company

[Docket No. CP88–605–000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No CP88–605–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Texaco Gas Marketing, Inc. (Texaco). United explains that services commenced June 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–4645. United explains that the peak day quantity would be 27,810 dekatherms, the average daily quantity would be 27,810 dekatherms, and that the annual quantity would be 10,150,650 dekatherms, United explains that it would receive natural gas for Texaco's account at points of receipt in the State of Louisiana. United states that it would redeliver the gas for Texaco's account at points of delivery in the State of Mississippi and Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. United Gas Pipeline Company

[Docket No. CP88–606–000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No CP88–606–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Texaco Inc. (Texaco). United explains that service commenced June 1, 1988, under § 284.223(a) of the Commission's Regulation, as reported in Docket No. ST88–4640. United explains that the peak day quantity woule be 51,500 dekatherms, the average daily quantity would be 51,500 dekatherms, and that the annual quantity would be 18,797,500 dekatherms. United explains that it would receive natural gas for Texaco's account at points of receipt in the state of Texas. United states that it would redeliver the gas for Texaco's account at points of delivery in the state of Texas.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipeline Company

[Docket No. CP88–607–000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No CP88–607–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for LaSer Marketing Company (LaSer). United explains that service commenced May 6, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–4669. United explains that the peak day quantity would be 77,250 dekatherms, the average daily quantity would be 77,250 dekatherms, and that the annual quantity would be 28,196,250 dekatherms. United explains that it would receive natural gas for LaSer's account at an existing interconnection between United and Sea Robin Pipeline Company in Vermillion Parish, Louisiana. United states that it would redeliver the gas for LaSer's account at an existing interconnection between United and Florida Gas Transmission Company in St. Landry Parish, Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipeline Company

[Docket No. CP88–608–000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No CP88–608–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for the Resource Group (Resource). United explains that service commenced June 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–4697. United explains that the peak day quantity would be 15,450 dekatherms, the average daily quantity would be 15,450 dekatherms, and that the annual quantity would be 5,639.250 dekatherms. United explains that it would receive natural gas for Resource's account at points of receipt in the State of Louisiana. United states that it would redeliver the gas for Resource's account at an existing interconnection between United and Mississippi Chemical Corporation in Jackson County, Mississippi, and an existing interconnection between United and Shell's Norfth Terrebonne Gas Processing Plant in Terrebonne Parish, Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

10. United Gas Pipeline Company

[Docket No. CP88–609–000]

Take notice that on July 21, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No CP88–609–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7(c) of the natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Seagull Marketing Services, Inc. (Seagull). United explains that service commenced June 22, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–6998. United explains that the peak day quantity would be 77.250 dekatherms, the average daily quantity would be 77,250 dekatherms, and that the annual quantity would be 28,196, 250 dekatherms. United explains that it would receive natural gas for Seagull's account at points or receipt in the state of Louisiana. United states that it would redeliver the gas for Seagull's account at an existing interconnection between United and Mississippi River Transmission Corporation in Ouachita Parish, Louisiana.

Comment date: September 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

11. Great Lake Gas Transmission Company

[Docket No. CP88–599–000]

Take notice that on July 21, 1988, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88–599–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Unicorp Energy Inc. (Unicorp), a natural gas marketing company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Unicorp has requested that Great Lakes transport, on an interruptible basis, up to 15,000 Mcf per day for the account of Unicorp, from a point of International Border between the United States and Canada, at Emerson, Manitoba, where the facilities of Great Lakes interconnect with the facilities of TransCanada PipeLines Limited, to a point where Great Lakes' facilities interconnect with those of: (1) ANR Pipeline Company (ANR) at Fortune Lake and at Farwell, Michigan and (2) Michigan Consolidated Gas Company (MichCon) at Boyne City and at Belle River Mills, Michigan. It is indicated that ANR will transport the subject volumes it receives for the account of Unicorp to various points where its facilities interconnect with the facilities of MichCon. It is further indicated that MichCon will transport and deliver the subject volumes to Unicorp's customers. It is stated that the initial term of the proposed arrangements is to end on November 1, 1989, but the term can be extended year-to-year thereafter, unless terminated by either party.

Great Lakes states that the rate for the transportation of the subject volumes to the Fortune Lake and Boyne delivery points will be a rate equal to the 100 percent load factor rate determined from the transportation components applicable to deliveries in Great Lakes' Central Zone under existing Rate Schedule CQ–2 of Great Lakes' FERC Gas Tariff, under which volumes of gas are also transported from Emerson to Great Lakes' Central Zone. Great Lakes further states that the rate for the transportation service to the Farwell and Belle River delivery points will be equal to the 100 percent load factor rate applicable to deliveries in the Eastern Zone under existing Rate Schedule T–4 of Great Lakes' FERC Gas Tariff, under which volumes of gas are also transported from Emerson to Great Lakes' Eastern Zone.

Comment date: August 18, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natrual Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17430 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CS71–1092–000 et al.]

Chalk Hill Gas, Inc., Orville Eberly et al.; Applications for Small Producer Certificates [1]

August 1, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 15, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No.	Date Filed	Applicant
CS71-1092-000	[1] 7-1-88	Chalk Hill Gas, Inc. (Orville Eberly), c/o Eberly and Meade, Inc., One Grand Park—Suite 210, 777 Northwest Grand Boulevard, Oklahoma City, OK 73118-6088
CS73-369	[2] 7-8-88	Pedestal Oil Company, Incorporated (Pedestal Company), P.O. Box 1522, Oklahoma City, OK 73101
CS76-908-001	[3] 7-1-88	Greystone Resources, Inc., Mark Mitrisin and Patricia H. Miller (Robert E. Eberly), c/o Eberly and Meade, Inc., One Grand Park—Suite 210, 777 Northwest Grand Boulevard, Oklahoma City, OK 73118-6088
CS77-811	[4] 7-18-88	Westar Energy, Inc. (Wood & Locker, Inc.), 505 N. Big Spring Street, Suite 600, Midland, TX 79701-8602
CS86-1-001	[6] 7-18-88	W&T Oil Properties, Inc. and W&T Offshore, Inc. (W&T Oil Properties, Inc.), 1012 Pere Marquette Building, New Orleans, LA 70112
CS87-36-000	[7] 7-5-88	Daniel L. Veirs and Daniel L. Veirs d/b/a Veirs Production Company, (Daniel L. Veirs), 223 W. Wall, Suite 500, Midland, TX 79701
CS88-76-000	[8] 6-16-88	Piney Fork Production Company, P.O. Box 4234, Houston, TX 77210-4234
CS88-77-000	[8] 6-16-88	White Pine Company, P.O. Box 33, South Houston, TX 77587
CS88-78-000	[9] 6-30-88	Wes-Mor Oil & Gas, Inc., P.O. Box 1269, Graham, TX 76046
CS88-79-000	7-11-88	Landmark Reserves, Inc., P.O. Box 1022, Breckenridge, TX 76024
CS88-80-000	[10] 7-18-88	Patwell Oil & Gas Company, *et al.*,[11] 1320 Lake Street, Fort Worth, TX 76102
CS88-81-000	7-15-88	Pepin Oil Ventures, a general partnership, P.O. Box 1936, Stillwater, OK 74076

[1] By letter dated June 10, 1988, Applicant requests that the small producer certificate issued to Orville Eberly in Docket No. CS71-1092 be redesignated under the name of Chalk Hill Gas, Inc. Applicant states that Orville Eberly passed away on April 3, 1983, that his estate is in the process of being settled, and that all of his interest is being assigned to Chalk Hill Gas, Inc.

[2] By letter dated July 5, 1988, Applicant requests that the small producer certificate in Docket No. CS73-369 be redesignated from Pedestal Company to Pedestal Oil Company, Incorporated. Applicant states that Pedestal Company and Pedestal Oil Company, Incorporated, are one and the same.

[3] By letter dated June 10, 1988, Applicant requests that the small producer certificate issued to Robert E. Eberly in Docket No. CS76-908 be redesignated in the name of Greystone Resources, Inc. Applicant states that Robert E. Eberly, Sr., has assigned all of his interest to Greystone Resources, Inc., of which he is President. Applicant also states that it would like to include Mark Mitrisin and Patricia H. Miller under the small producer certificate in accordance with § 157.40(b)(5) of the Commission's Regulations. Applicant states Mark Mitrisin is Treasurer and Patricia H. Miller is Assistant Secretary of Greystone Resources, Inc.

[4] By letter dated July 14, 1988, Applicant requests that the small producer certificate issued to Wood & Locker, Inc., in Docket No. CS77-811, be redesignated in the name of Westar Energy, Inc. Applicant states that Wood & Locker's name has been changed to Westar Energy, Inc., as evidenced by Certificate of Amendment issued by The State of Texas Secretary of State on March 21, 1988.

[5] Application received June 17, 1988. Filing date is date of receipt of filing fee.

[6] By letter dated June 17, 1988, as supplemented by letter dated July 15, Applicant requests that W&T Offshore, Inc., be added as small producer certificate co-holder in Docket No. CS86-1-001. Applicant states that W&T Offshore, Inc., is a newly-formed wholly-owned affiliate of W&T Oil Properties, Inc.

[7] By letter dated July 1, 1988, Applicant requests that his small producer certificate issued in Docket No. CS87-36-000 be amended to include his d/b/a/ name for Veirs Production Company in addition to Daniel L. Veirs.

[8] Additional material received July 20, 1988.

[9] Application received June 27, 1988. Filing date is date of receipt of filing fee.

[10] Application received July 13, 1988. Filing date is date of receipt of filing fee.

[11] The *et al.* parties are Patricia Dean Boswell, John P. Boswell, Vivienne Boswell Mays, Patricia Dean Boswell/ Marital Trust, Patricia Dean Boswell Revocable Trust, Marc H. Lowrance, Jr., Mary Anne Lowrance, M.H. Lowrance and Philip H. Wolfard.

[FR Doc. 88-17431 Filed 8-2-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-152-001]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 29, 1988.

Take notice that on July 25, 1988, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets with a proposed effective date of June 1, 1988:

Second Revised Sheet No. 44
Second Revised Sheet No. 45
Third Revised Sheet No. 46
Fourth Revised Sheet No. 47
Second Revised Sheet No. 47A
Second Revised Sheet No. 48
Second Revised Sheet No. 49

Alabama-Tennessee states that the tariff sheets are in compliance with the Commission's letter order issued on June 23, 1988 in the captioned proceeding. Such letter order directed Alabama-Tennessee to file tariff sheets to conform to the requirements of Order Nos. 483 and 483-A.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17432 Filed 8-2-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-122-010]

Colorado Interstate Gas Co.; Compliance Filing

July 29, 1988.

Take notice that on July 25, 1988, Colorado Interstate Gas Company (CIG) tendered for filing Third Revised Sheet No. 54 of Original Volume No. 1 of its FERC Gas Tariff in compliance with the requirements of Opinion No. 290-B. CIG states that the Commission required that

CIG modify its longstanding tariff provision with respect to reductions in annual entitlements. CIG states that the instant tariff filing reflects a modification to Section 18.8 of its FERC Gas Tariff General Terms and Conditions in compliance with Opinion No. 290–B. CIG further states that this filing is made under protest and without prejudice to CIG's rights to seek judicial review of the requirements of Opinion No. 290–B and subject to reinstatement of its existing tariff provision on the basis of the final disposition of such proceedings. CIG states that, should the Commission determine that an effective date is required, it requests an effective date of August 19, 1988. A copy of this filing is being served on CIG's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17433 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–74–002]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

July 29, 1988.

Take notice that on July 25, 1988, Colorado Interstate Gas Company ("CIG") tendered for filing certain revised tariff sheets to CIG's FERC Gas Tariff, Original Volume No. 1, in compliance with the Commission's Letter Order issued July 15, 1988, in Docket No. RP87–74–000. The instant revisions reflect modifications to certain provisions of CIG's Sales Standby Service as contained in an Offer of Settlement approved by the Commission in the above-referenced Letter Order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17434 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–149–002]

Paiute Pipeline Co.; Filing

July 29, 1988.

Take notice that on July 25, 1988, Paiute Pipeline Company (Paiute) filed Substitute Original Sheet Nos. 62, 63, 66, 67, 68 and 70 to its FERC Gas Tariff, Original Volume No. 1, proposed to be effective August 1, 1988.

Paiute states that by Letter Order dated June 28, 1988, Southwest Gas Corporation was directed to file certain corrections to its filing of May 2, 1988 in Docket Nos. RP88–149–000 and FERC Order Nos. 483 and 483–A. Paiute requests these tariff sheets be substituted for their counterparts filed on May 2, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 8, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17477 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–133–002]

Panhandle Eastern Pipe Line Co.; Change in Tariff

July 29, 1988.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 26, 1988, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Sixteenth Revised Sheet No. 43–2

First Substitute Seventeenth Revised Sheet No. 43–4

First Substitute Fifth Revised Sheet No. 43–4.1

First Substitute First Revised Sheet No. 43–4.3

Panhandle states that the proposed effective date of these revised tariff sheets is June 1, 1988.

Panhandle states that the instant filing is being filed in accordance with Order Nos. 483 and 483–A and in compliance with the Commission's letter order dated July 1, 1988 in the subject proceeding.

Copies of the filing were served upon Panhandle's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 8, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspecton in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17478 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–162–001]

Ringwood Gathering Co.; Filing of Revisions to Revised Purchased Gas Adjustment Clause

July 29, 1988.

Take notice that on July 25, 1988, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Loop Central Three, Suite 850, Houston, Texas 77081, filed Eleventh Revised

Sheet No. 59, Sixth Revised Sheet No. 60, Sixth Revised Sheet No. 61, Fifth Revised Sheet No. 62, and Fifth Revised Sheet No. 63 to its FERC Gas Tariff pursuant to the June 23, 1988 letter order in Docket No. RP88–162–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 8, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17479 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–222–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 29, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 25, 1988 tendered for filing as part of its FERC Gas Tariff.

Fifth Revised Volume No. 1

Revised Second Revised Sheet No. 50
Revised Second Revised Sheet No. 50A
Revised Second Revised Sheet No. 50B
Revised Second Revised Sheet No. 50C
Revised Second Revised Sheet No. 50D
Revised Second Revised Sheet No. 51
Revised Second Revised Sheet No. 51A
Revised Second Revised Sheet No. 51B
Revised Second Revised Sheet No. 51C
Revised Second Revised Sheet No. 51D

Original Volume No. 2

Revised Sixth Revised Sheet No. 970
Revised Sixth Revised Sheet No. 971
Revised Seventh Revised Sheet No. 1017
Revised Seventh Revised Sheet No. 1018

Texas Eastern states that the purpose of this filing is to eliminate the mileage rate for transportation within Zone A under Rate Schedules TS–1, TS–2 and IT–1 and in lieu thereof replace it with a single commodity rate for transportation originating and delivered within Zone A under these rate schedules, regardless of the distance of haul.

Texas Eastern states that it is making this rate design change for Zone A in order to provide consistency with the rate methodology utilized in Zones B, C and D with respect to its transportation, to return to the historical method used to establish rates in its Zone A previously approved by the Commission, and to provide flexibility for selected discounting in accordance with Order Nos. 436 and 500. Texas Eastern states that under its proposal, Texas Eastern would be at risk for the full Zone A rate should it not achieve design levels.

Texas Eastern states that the proposed effective date of the tariff sheets listed above is September 1, 1988, the date of Texas Eastern's compliance filing in Docket No. RP88–67 which was made July 22, 1988.

Copies of the filing were served on Texas Eastern's jurisdictional customers, interested state commissions and to all current customers under Rate Schedules IT–1, TS–1, and TS–2.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 8, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17480 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–223–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 29, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 25, 1988 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the following tariff sheets:

Third Revised Sheet No. 60
Third Revised Sheet No. 61
Third Revised Sheet No. 62
Third Revised Sheet No. 63
Third Revised Sheet No. 64–69
First Revised Sheet No. 483A
First Revised Sheet No. 483B

Texas Eastern states that the purpose of this filing is to establish the procedures pursuant to which Texas Eastern will recover the take-or-pay charges to be billed by Southern Natural Gas Company (Southern) and paid by Texas Eastern as proposed by Southern in a filing made on July 1, 1988 in Docket No. RP88–210.[1]

Texas Eastern states that the fixed monthly charge, comprised of principal and first year amortization interest, to be paid by Texas Eastern to Southern as proposed in Southern's July 1, 1988 filing is $481,406. Over a period of 60 months, the total take-or-pay cost, exclusive of amortization interest, to be recovered from Texas Eastern by Southern is $20,764,614.

Texas Eastern states that these tariff sheets are being filed solely to establish the procedures for recovering the take-or-pay charges to be billed by Southern and paid by Texas Eastern. Sheet Nos. 60, 61, 62, and 63 set forth the monthly principal amount plus the allocation factor for carrying costs that each Texas Eastern customer will be required to pay in order to recover Southern's take-or-pay charges billed to Texas Eastern pursuant to Southern's filing on July 1, 1988 in Docket No. RP88–210. In tracking Southern's methodology, consistent with Commission orders issued June 23, 1988 in Docket No. RP88–80 and July 15, 1988 in Docket No. RP88–192, Texas Eastern has given recognition to purchases by Texas Eastern's Rate Schedule SGS customers under Rate Schedule I in the determination of the base and deficiency periods, to the extent these customers did not request Rate Schedule I gas in lieu of Rate Schedule SGS gas, but were given the benefit of the lower I rate. Workpapers setting forth Texas Eastern's determination of the allocation factor for the monthly principal amount and the monthly principal amounts each Texas Eastern customer will be required to pay are set forth under Attachment A.

Texas Eastern states that if at any time Southern is permitted by Commission order to change its take-or-pay procedures and/or the amounts to be recovered pursuant thereto, Texas Eastern will likewise change its take-or-pay procedure and/or the amounts to be recovered pursuant thereto. In addition, Texas Eastern expressly agrees to refund to its customers all refunds received from Southern in Docket No. RP88–210.

Texas Eastern states that the proposed effective date of the tariff sheets listed above is August 1, 1988.

---

[1] Texas Eastern notes that it filed a protest to Southern's filing on July 14, 1988.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 8, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17481 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-191-001]

Tennessee Gas Pipeline Co.; Filing

July 29, 1988.

Take notice that on July 25, 1988, Tennessee Gas Pipeline Company (Tennessee) filed the following tariff sheets to Volume No. 1 of its FERC Gas Tariff:

Second Revised Sheet No. 245
Original Sheet Nos. 245A through 245F
Third Revised Sheet No. 246

Tennessee states that the purpose of the filing is to comply with Ordering paragraph (B) of the Commission's July 8, 1988 Order in this proceeding and set forth the accounting and billing procedures applicable to Tennessee's fixed charge recover of take-or-pay costs. Tennessee states that the tariff sheets reflect the terms and conditions of Tennessee's Stipulation and Agreement filed October 14, 1987 in *Tennessee Gas Pipeline Company*, Docket Nos. RP86-119, *et al.* as modified by Commission orders issued February 8, 1988 and May 27, 1988 in that proceeding. In addition, the tariff sheets reflect that Tennessee's customers may elect an amortization period of up to 36 months for payment of their share of Tennessee's take-or-pay costs. The tariff sheets also reflect the elimination of the "sunset date" of December 31, 1988 with respect to gas purchase contracts which are the subject of litigation on December 31, 1988. Consistent with the Commission's decision in El Paso Natural Gas Company's Docket No. RP88-184-000 proceeding, Tennessee will be permitted to recover fifty percent of its take-or-pay costs associated with these contracts through fixed charge recovery irrespective of the date payments were made.

The tariff sheets are proposed to be effective July 1, 1988.

Tennessee further states that it is submitting information with respect to take-or-pay amounts reflected in its last general rate proceeding in Docket No. RP85-178. This information supports Tennessee's calculations of take-or-pay costs it has filed to recover in this proceeding.

Tennessee states that copies of the filing have been mailed to all parties in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17435 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-160-002]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

July 29, 1988.

Taken notice that on July 22, 1988, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets of its FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date for the subject tariff sheets is June 1, 1988.

Transco states that on May 2, 1988, Transco submitted for filing certain tariff sheets to be effective June 1, 1988 which amended the Purchased Gas Adjustment (PGA) clause pursuant to Commission Order No. 483 and Order No. 483-A. Transco further states that by Commission order issued May 25, 1988 in Docket Nos. RP88-152-000 *et al.*, such sheets were accepted for filing and suspended to become effective June 1, 1988, subject to refund and, subject to further review. Transco states that on June 23, 1988, Transco received a letter from the Director of the Office of Pipeline and Producer Regulation which detailed the required corrections to Transco's PGA clause, and directed Transco to file revised tariff sheets reflecting such corrections within 30 days of the issuance of said letter. Transco states that the tariff sheets filed herein are in compliance with the aforementioned letter.

Transco states that copies of the filing are being mailed to each of its customers, State Commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17436 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-134-002]

Trunkline Gas Co.; Change in Tariff

July 29, 1988.

Take notice that Trunkline Gas Company (Trunkline) on July 25, 1988, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Twelfth Revised Sheet No. 21-F
First Substitute Fourth Revised Sheet No. 21-F.1
First Substitute Sixth Revised Sheet No. 21-I
First Substitute Sixth Revised Sheet No. 21-J
First Substitute First Revised Sheet No. 21-J.2
First Substitute Original Revised Sheet No. 21-J.5

Trunkline states that the proposed effective date of these revised tariff sheets is June 1, 1988.

Trunkline states that the instant filing is being filed in accordance with Order Nos. 483 and 483–A and in compliance with the Commission's letter order dated June 23, 1988 in the subject proceeding.

Copies of the filing were served upon Trunkline's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Steet NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17437 Filed 8–2–88; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $7.2 million, plus accrued interest, in alleged crude oil overcharge funds obtained from New York Petroleum, Inc., Chevron U.S.A. Inc., Patton Oil Company and Ladd Petroleum Corporation. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days from the date of publication of this notice in the Federal Register and should be addressed to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a conspicuous reference to Case Number KFX–0052.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute crude oil overcharge funds obtained from New York Petroleum, Inc., Chevron U.S.A. Inc., Patton Oil Company and Ladd Petroleum Corporation. The funds are being held in interest-bearing escrow accounts pending distribution by the DOE.

The DOE has tentatively decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge moneys are divided among the states, the federal government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the Federal Register and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Date: July 26, 1988

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

July 26, 1988.

Names of Firms: New York Petroleum, Inc. Chevron U.S.A. Inc., Patton Oil Company, Ladd Petroleum Corporation

Dates of Filing: April 6, 1988, January 27, 1988, March 25, 1988, July 8, 1988

Case Numbers: KFX–0052, KEF–0100, KEF–0107, KEF–0112

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed four Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from New York Petroleum, Inc. [NYP], Chevron U.S.A. Inc., Patton Oil Company, and Ladd Petroleum Corporation.[1] These four firms remitted a total of $7.2 million to the DOE. An additional $279,000 in interest has accrued on that amount as of June 30, 1988. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart

[1] On June 29, 1984, the OHA issued a final Decision and Order concerning the petition to implement refund procedures for the crude oil overcharge funds obtained from NYP pursuant to a court approved settlement. *See* New York Petroleum, Inc., 12 DOE ¶ 85,047 (1984). That Decision established procedures for a first-stage refund process only. We specifically noted that no procedures were being adopted at that time for the final disposition of any funds remaining after all meritorious first-stage claims were paid. Two refund applications were received in that proceeding, and one refund was granted. *See* New York Petroleum, Inc./Ashland Oil, Inc., 16 DOE ¶ 85,613 (1987). We now propose to distribute the $115,580.42 in residual funds in the NYP escrow account, plus accrued interest, pursuant to the procedures set forth in this Decision.

Ladd Petroleum Corporation remitted $2,887,611.31 to the DOE pursuant to a July 27, 1987 Judgment of the United States District Court for the Eastern District of Louisiana. Chevron U.S.A. Inc. remitted $3,092,414.21 pursuant to Consent Order Number RGFE006A1W, and Patton Oil Company remitted $1,110,940.14 pursuant to Consent Order Number 810C00323Z.

V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 8 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the four firms listed above, and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) ("the MSRP"). The MSRP, issued as a result of the court-approved Settlement Agreement in In Re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan.), provides that crude oil overcharge funds will be divided among the States, the Federal Government, and injured purchasers of refined petroleum products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved initially to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and monies remaining after all valid claims are paid, are to be disbursed equally to the States and Federal Government for indirect restitution.

The OHA has been applying the MSRP to all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737. The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil monies under the Subpart V regulations. All applicants for refunds would be required to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge monies that were in the DOE's escrow account at the time of the settlement and a portion of the funds in the M.D.L. 378 escrow at the time of the settlement.

The DOE has applied these procedures in numerous cases since the April 1987 Notice, see, e.g., Shell Oil Co., 17 DOE ¶ 85,204 (1988), and Ernest A. Allerkamp, 17 DOE ¶85,079 (1988), and the procedures have been approved by the United States District Court for the District of Kansas. Various States had filed a Motion with that Court, claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the States' Motion in its entirety. The court concluded that the Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." In Re: The Department of Energy Stripper Well Exemption Litigation, 3 Fed. Energy Guidelines ¶ 26,587 at 26,826 (D. Kan. 1987) . The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. Id. at 26,827. The States have appealed the latter ruling. In Re: The Department of Energy Stripper Well Exemption Litigation, No. 10–76 (Temp. Emer. Ct. App. filed Nov. 5, 1987).

II. The Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April 1987 Notice to the crude oil Subpart V proceedings that are the subject of the present determination. As noted above, $7.2 million in alleged crude oil violation amounts is covered by this Proposed Decision. We have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts, or $1.44 million (plus interest) for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. The amount of the reserve may be adjusted downward later if circumstances warrant.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. See Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986).

As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond volumes of product purchased in the distribution scheme in which the overcharges occurred. See A. Terricone, 15 DOE ¶ 85,495 at 88,893–96 (1987). Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. Id. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under Subpart V. Boise Cascade Corp., 16 DOE ¶ 85,214 at 88,411 (1987); Sea-Land Service, Inc., 16 DOE ¶ 85,496 at 88,991 n.1 (1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amounts involved in this determination ($7.2 million) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Mountain Fuel, 14 DOE at 88,868. This yields a volumetric refund amount of $0.00000356 per gallon. We propose to adopt a deadline of October 31, 1989, for refund applications submitted pursuant to this

Decision. See World Oil Corp., 17 DOE ¶ _____, No. KEF-0005 (July 7, 1988).

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. See Allerkamp, 17 DOE at 88,176. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application. A deadline of June 30, 1988, was established for all crude oil refund proceedings implemented pursuant to the MSRP up to and including Shell Oil. See A. Tarricone, Inc., 16 DOE ¶ 85,681 (1987); Allerkamp, 17 DOE at 88,178; Shell Oil, 17 DOE at 88,408. Any applicant that files a refund application after that deadline will be eligible to receive a refund based only on the volumetric amounts approved subsequent to that date. This volumetric refund amount will be increased as additional crude oil violation amounts are received in the future. Applicants may be required to submit additional information to document their refund claims for these future amounts. Notice of any additional amounts available in the future will be published in the **Federal Register.**

B. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that the remaining 80 percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $5.76 million, plus interest, be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Settlement Agreement.

Before taking the actions we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register.**

It Is Therefore Ordered That:

The refund amounts remitted to the Department of Energy by New York Petroleum, Inc., Chevron U.S.A. Inc., Patton Oil Company and Ladd Petroleum Corporation shall be distributed in accordance with the foregoing Decision.

[FR Doc. 88-17492 Filed 8-2-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3424-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for their review. Because we are requesting expedited review, this notice includes the actual data collection instrument. The ICR itself is also available to the public for review and comment. It describes the nature of the information collection and its expected cost and burden.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Survey of Information Management Issues Under SARA, Title III, sections 311 and 312. (EPA ICR #1478).

Abstract: State and local government entities receiving SARA, Title III, sections 311 and 312 data will be asked questions concerning their management of this information. This survey will identify information management models to be used in evaluating alternatives for a permanent reporting threshold. Response is voluntary.

Burden Statement: Public reporting burden for this collection of information is estimated to average one hour per respondent. This estimate includes the time for responding to questions in a telephone interview.

Respondents: States, and local governments.

Estimated No. of Respondents: 113.

Estimated Total Annual Burden on Respondents: 113 hours.

Frequency of Collection: One-time only.

Collection Instrument: Respondents will be asked questions based on the following:

Topic Guide

1. Characteristics of right-to-know information.

a. Correlation between state right-to-know laws and Title III.

b. For states with prior compliance, how many facilities reported? How many more will report under Title III? How many chemicals have been reported? Will this number change under Title III? If so, is this because of differing reporting thresholds? What types of enforcement/compliance figures does the State have?

2. Data management practices.

a. What has been done with the information that has been collected?

(1) Data management requirements.

(2) Need for expansion due to increase in number of reporters (non-manufacturers).

(3) Data quality/data manipulation.

(4) Updating entries with annual filings.

b. Cost and staff elements.

(1) Labor (collecting and managing right-to-know data).

(2) Information retrieval.

(3) Staff.

3. Opinions on setting a permanent threshold.

a. Based on data received, what would be an appropriate permanent threshold? Should it be the same for manufacturers and non-manufacturers?

b. Should EPA add other chemical lists to the list of Extremely Hazardous Substances for the purpose of having lower thresholds for these chemicals?

c. Should reporting be made more standardized?

4. Other.

a. What would you like to see as the final reporting threshold? Why?

b. Rate the final threshold options?

c. Comment on public requests.

d. (For State Emergency Response Commissions only) Does the same agency collect the data for the Underground Storage Tank reporting program and Title III?

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St., SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, (Telephone (202) 395-3084).

Date: July 26, 1988.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-17485 Filed 8-2-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3424-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the notice announces that the Information Collections Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and are available to the public for review and comment. The ICRs describe the nature of the information collection and their expected costs and burdens; where appropriate, they include the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS Subpart G—Nitric Acid Plants. (EPA ICR #1056).

Abstract: Owners or operators of facilities producing nitric acid must notify EPA of construction, modifications, startups, shutdowns, and malfunctions, as well as the date and results of the initial performance test. They must also keep records identifying production rate and hours of operation, and must install and maintain a device for continuous monitoring of NO_x. They must notify EPA of any action that may increase the regulated emission rate, and must report excess emissions quarterly. (EPA has proposed reducing this reporting frequency to semi-annual.)

Burden Statement: Public reporting burden for this collection of information is estimated to average 2 to 60 hours per response. This estimate includes the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Owners or Operators of Nitric Acid Plants.

Estimated No. Of Respondents: 47.

Estimated Burden: 9,900 hours.

Frequency Of Collection: Quarterly.

Office Of Water

Title: State Revolving Fund (SRF) Programs. (EPA ICR #1391).

Abstract: States provide EPA with information on how they administer and operate SRF Programs. EPA Uses the data to ensure national accountability, adequate public comments, fiscal integrity, and consistent management of these programs.

Burden Statement: Public reporting burden for this collection of information is estimated to average 457 hours per respondent per year. This estimate includes the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States.

Estimated No. of Respondents: 39.

Estimated Total Annual Burden on Respondents: 17,815 hours.

Frequency Of Collection: 5 responses per year.

Send comments regarding the burden estimates, or any other aspect of these collections of information, including suggestions for reducing the burdens, to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St. SW., Washington, DC 20460.

and

Nicolas Garcia (ICR #1056) and Tim Hunt (ICR #1391), Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, (Telephone (202) 395-3084).

Date: July 28, 1988.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-17486 Filed 8-2-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

Atlantic Bancorporation et al.; Application To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practicies." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments, regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 24, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Atlantic Bancorporation*, Voorhees, New Jersey; to engage *de nov* through its subsidiary, Glendale Mortgage Services Corporation, Voorhees, New Jersey, in making and servicing residential mortgage pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y. These activities will be conducted in the Commonwealth of Pennsylvania and New Jersey.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *South Carolina National Corporation*, Columbia, South Carolina; to engage *de novo* through its subsidiary, Southern Provident Life Insurance Company, Columbia, South Carolina, in reinsuring credit life and credit accident and health insurance sold as agent or broker by the operating subsidiaries of Applicant, including its subsidiary, South Carolina National Bank, Columbia, South Carolina, pursuant to § 225.25(b)(8) of the Board's Regulation Y.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Meredosia Bancorporation, Inc.* Springfield, Illinois; to engage *de novo* in making and servicing consumer,

mortgage, and commercial loans for its own account and for the account of other financial institutions pursuant to § 225.25(b)(1)(i), (iii), and (iv) of the Board's Regulation Y. These activities will be conducted within a 200-mile radius of Springfield, Illinois.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *W.T.B. Financial Corporation*, Spokane, Washington; to engage *de novo* through its subsidiary, WT Investment Advisors, Inc., Spokane, Washington, in acting as an investment advisor to the extent of providing portfolio investment advice to any person, serving as an investment advisor to a registered investment company and providing financial advice to state and local government, such as with respect to the issuance of their securities pursuant to § 225.25(b)(4) of the Board's Regulation Y. These activities will be conducted with the states of Washington, Oregon, Montana, and Idaho. Comments on this application must be received by August 22, 1988.

Board of Governors of the Federal Reserve System, July 28, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17403 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

Barnett Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 24, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Barnett Banks, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares of Bank of Madison County, Madison, Florida.

2. *CBS Bancshares, Inc.*, Spencer, Tennessee; to acquire an additional 44.46 percent of the voting shares of Citizens Bank of Gainesboro, Gainesboro, Tennessee.

3. *SouthTrust of Tennessee, Inc.*, Nashville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Meltons Bank, Gassaway, Tennessee, a *de novo* bank which will relocate to Nashville, Tennessee. SouthTrust Corporation, Birminham, Alabama, also has applied to acquire SouthTrust of Tennessee, Inc.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lancaster Bancorporation*, Lincoln, Nebraska; to become a bank holding company by acquiring 99.5 percent of the voting shares of Lancaster County Bank, Waverly, Nebraska.

Board of Governors of the Federal Reserve System July 28, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17404 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

Constellation Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Constellation Bancorp*, Elizabeth, New Jersey; to acquire N.A. Home Investors Mortgage Corporation, Hacksensack, New Jersey, and thereby engage in the acquisition and origination of primary mortgage loans, and the marketing or such loans to institutional and other investors either by sales of whole loans, or sales of participating interests in such loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 28, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17405 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

Fairfield County Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 24, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street , New York, New York 10045:

1. *Fairfield County Bancorp, Inc.*, Stamford, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Stamford, Stamford, Connecticut.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Piper Bankshares, Inc.*, Piper City, Illinois; to become a bank holding company by acquiring 99 percent of the voting shares of State Bank of Piper City, Piper City, Illinois.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Throckmorton Bancshares, Inc.*, Throckmorton, Texas; to become a bank holding company by acquiring 100 precent of the voting shares of the First National Bank of Throckmorton, Throckmorton, Texas.

Board of Governors of the Federal Reserve System, July 27, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17406 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

First Florida Banks, Inc., Tampa, FL; Application To Provide Certain Management and Consulting Services to Failed Savings and Loan Associations Under the Federal Home Loan Bank Board's Management Consignment Program

First Florida Banks, Inc., Tampa, Florida ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to: (1) Engage *de novo* through its subsidiary, First Management Group, Inc., Tampa, Florida, in providing management services to failed savings and loan associations under the Federal Home Loan Bank Board's management consignment program, and (2) engage *de novo* through its subsidiary, Florida Asset Management Group, Inc., Tampa, Florida, in assisting in the disposition of the nonearning assets and other applicable assets of such failed savings and loan associations.

The Federal Home Loan Bank Board ("FHLBB") has developed the management consignment program as a vehicle for preserving the integrity of a failed savings and loan association's assets and liabilities pending disposition of the assets and liabilities to a third-party acquiror. Under the program, the FHLBB charters a new shell federal mutual savings and loan association to which the assets and liabilities of the failed association are transferred. The FHLBB then appoints a Board of Directors of the new association, and the Federal Savings and Loan Insurance Corporation ("FSLIC") (as receiver for the failed association) and the Board of Directors appoint a manager of the association. The manager has responsibility for carrying out the mandates of the association's Board of Directors and supervising operations to ensure conformity with the Board's guidelines. In addition, the FSLIC, the Board of Directors, and the manager may contract for an "assets manager" to provide specific management services in respect of major loan assets or major real estate asets acquired through foreclosure. Applicant proposes to seek the appointment of First Management Group, Inc. by the FHLBB as a principal manager of one or more failed savings and loan associations from time to time. Applicant also proposes to seek the appointment of Florida Asset Management Group, Inc. by the FSLIC as an assets manager of one or more failed savings and loan associations from time to time.

The activities for which approval is requested have not previously been approved by the Board. The Board has determined that bank holding companies may provide management consulting advice to nonaffiliated bank and nonbank depository institutions under certain conditions, but has not authorized such activities to be provided on either a daily or a continuing basis, except as necessary to instruct the client institution on how to perform such services for itself. Section 225.25(b)(11) of Regulation Y (12 CFR 225.25(b)(11)).

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity that the Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant contends that the proposed activities meet this standard. A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 17, 1988. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, July 29, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17407 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

General Educational Fund, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23 (a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 24, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. General *Educational Fund, Inc.*, Burlington, Vermont, and its subsidiary, Merchants Bancshares, Inc., Burlington, Vermont; to engage *de novo* through their subsidiary, Merchants Properties, Inc., Burlington, Vermont, in making equity and debt investments in business organizations or projects whose objective is primarily to promote community welfare, such as the construction and/or rehabilitation of residential housing for sale and/or rental to persons of low or moderate income pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in the State of Vermont.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Sanwa Bank, Ltd.*, Osaka, Japan; to engage *de novo*, through its subsidiary, The Sanwa Capital Management, Inc., New York, New York, in acting as investment or financial adviser pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 28, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17408 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

Otto Bremer Foundation and Bremer Financial Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the pubic, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 1988.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Otto Bremer Foundation and Bremer Financial Corporation*, both of St. Paul, Minnesota; to acquire First American Agency, Inc. of St. Cloud, St. Cloud, Minnesota, and thereby engage in general insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. These activities will be conducted in St. Cloud, Minnesota.

Board of Governors of the Federal Reserve System, July 28, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17409 Filed 8-2-88; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Octane Posting and Certification

AGENCY: Federal Trade Commission.

ACTION: Grant of partial exemption from the Commission's Octane Rule.

SUMMARY: The Commission has responded to the petition of Gilbarco, Inc., requesting permission to post octane ratings by use of an octane label that differs from certain of the specifications contained in the Commission's Octane Posting and Certification Rule. The Commission has granted the partial exemption with respect to Gilbarco's multi-blend gasoline dispensers. Pursuant to Rule 1.26 of the Commission's Rules of Practice, the Commission grants, for good cause, the requested relief without a notice and comment period because the Commission finds that such a procedure is unnecessary to protect the public interest in this case.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Neil J. Blickman, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, (202) 326–3038.

SUPPLEMENTARY INFORMATION: On March 30, 1979, the Commission published the Octane Posting and Certification Rule in the **Federal Register** (44 FR 19160). The rule establishing procedures for determining, certifying and posting, by means of a label on the fuel dispenser, the octane rating of automotive gasoline intended for sale to consumers.

Section 306.9 of the rule provides that retailers must post at least one octane rating label on each face of each gasoline dispenser. Retailers (like those using Gilbarco's dispensers) who sell two or more kinds of gasoline with different octane ratings from a single dispenser must post separate octane rating labels for each kind of gasoline on each face of the dispenser. Labels must be placed conspicuously on the dispenser so as to be in full view of consumers and as near as reasonably practical to the price per gallon of the gasoline.

Section 306.11 of the rule details specifications for the labels. Labels must be 3 inches wide by 2.5 inches long, and Helvetica type must be used for all text except the octane rating number, which must be in Franklin Gothic type. Type size for the text and numbers is specified, and the type and border must be process black on a process yellow background. The line "MINIMUM OCTANE RATING" must be in 12 point Helvetica bold, all capitals, with letter space set at 12½ points. The line "(R+M)/2 METHOD" must be in 10 point Helvetica bold, all capitals, with letter space set at 10½ points. The octane number must be in 96 point Franklin Gothic Condensed, with ⅛ inch spacing between the numbers. Section 306.11(d) of the rule further states that no marks or information other than that called for by the rule may appear on the label.

By letter dated March 21, 1988, Gilbarco, Inc., a major manufacturer and marketer of gasoline pumps and dispensers, requested permission to post octane ratings by use of an octane label that differs from the label specifications contained in § 306.11 of the Commission's Octane Posting and Certification Rule.

Gilbarco, Inc. proposed the following labeling scheme for use with its multi-blend gasoline dispenser control panel switches:

(1) In order to conform with the dimensions of the control panel gasoline dispenser switch Gilbarco has manufactured, it proposes to use an octane label that is 3 inches wide by 2.3 inches long instead of a label that is 3 inches wide by 2.5 inches long as specified in the rule; and

(2) In order to show consumers how to use this new type of octane selection switch, Gilbarco proposes to place the word "PRESS," in 16 point Helvetica bold type, beneath the octane number on the label.

The Commission has decided that the above-described labeling scheme is adequate to meet the Octane Rule's posting objective as it provides clear disclosure of all rule-required information. In addition, the variance accommodates a technological development in the industry without adversely affecting the public interest. Therefore, the Commission has decided to grant Gilbarco permission to use its proposed labeling system on its multi-blend dispensers, provided that Gilbarco will also comply with the Rule's octane label specifications in all other respects.

List of Subjects in 16 CFR Part 306

Energy conservation, Gasoline, Labeling.

By direction of the Commission.

Benjam I. Berman,

Acting Secretary.

[FR Doc. 88–17411 Filed 8–2–88; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Supplemental Funds Available for Fiscal Year 1988; U.S. Conference of Mayors Disseminating Educational Information About AIDS Project

Introduction

The Centers for Disease Control announces the availability of supplemental funds to the existing cooperative agreement with the United States Conference of Mayors (USCM). Through this cooperative agreement the USCM supports national, regional, and community-based AIDS health education/risk reduction programs which target the needs of racial and ethnic minoritiets.

Authority

The project is authorized under section 301(a) of Public Health Service Act. The catalog of Federal Domestic Assistance No. is 13.118.

Background and Purpose

On June 1, 1988, the Centers for Disease Control (CDC) awarded $1,690,000 to the USCM to continue to promote the exchange of information about AIDS and HIV infection among mayors of local governments and to support community based AIDS health education/risk eduction projects which target the needs of minorities. For the past several years, in collaboration with CDC, the conference of Mayors has conducted (1) a program to ensure that relevant and current information concerning local roles, policies, and activities in response to AIDS is rapidly disseminated to mayors and health and other local government officials in approximately 860 cities with populations of more than 30,000, and (2) a continuing program of awards to community-based organizations interested in developing locally-oriented AIDS health education/risk reduction programs.

On August 1, 1988, the National AIDS Information/Education Program (NAIEP) expects to award funding to national and regional minority organizations to develop and implement AIDS information and education programs. Many national organizations whose local affiliates are currently supported by the USCM are expected to apply for the NAIEP grants. Up to thirty grants totalling approximately $6 million are expected to be made.

The purpose of this supplement is to support the USCM to expand its technical assistance program to national, regional, State and local minority organizations involved in AIDS prevention. This technical assistance will facilitate rapid information sharing, provide better coordination with State and local health and education agencies' AIDS prevention activities, and assist in stimulating more minority organizations to become active in AIDS prevention efforts.

Eligibility

USCM has a unique relationship with mayors, national and community organizations, and local government officials which facilitates the integration of AIDS prevention efforts at the local level. Also USCM is currently the only national organization with the mechanisms already established for making awards and providing technical assistance on a nationwide basis to minority-oriented community-based organizations to address the critical health needs described above. Therefore, no other applications are being solicited.

Cooperative Activities

A. Recipient Activities

1. The U.S. Conference of Mayors shall provide advice and assistance to local, state, regional and national minority organizations in developing, implementing and evaluating AIDS information, education, and prevention programs targeted toward minority constituencies.

2. Special emphasis will be given to coordination of efforts with existing programs and activities, especially those being conduted by State and local health and education agencies, and stimulating local affiliates of national and regional Federally funded agencies to initiate local AIDS informaiton, education and prevention programs and activities.

B. CDC Activities

1. CDC will provide training and access to the Conference of Mayors in the use of the National AIDS Clearinghouse database;

2. Training in performance community needs assessment studies;

3. Information on Federal AIDS programs, especially those with funds available to target minority communities;

4. Information on existing non-Federal resources and programs targeted to minority communities;

5. Technical advice on development, implementation, and evaluation of effective AIDS information and education programs.

Availability of Funds

Approximately $300,000 from FY 1988 is available for funding through the end of the current budget period ending May 31, 1989.

Reporting Requirements

Annual financial status reports are required no later than 90 days after the end of each budget period. Final financial status and performance reports are required 90 days after the end of a project period.

Other Requirements

Recipients must comply with the document titled: Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (January 1988) (53 FR 6034, February 29, 1988).

Review and Evaluation Criteria

The application will be reviewed and evaluated based upon the following:

(1) That project personnel are well qualified by training and/or experience for the support sought and the applicant organization has adequate facilities and manpower;

(2) That the proposed activities are capable of attaining project objectives;

(3) That the project objectives are identical with, or are capable of achieving, the specific program objectives defined in the program announcement; and

(4) That the budget request is clearly explained, adequately justified, reasonable, and consistent with the intended use of cooperative agreement funds.

Application Submission

The original and two copies of the application must be submitted to Nancy Bridger, Grants Management Officer, Grants Management Branch, Procurement and Grant Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Mailstop E14, Atlanta, GA 30305, on or before August 28, 1988.

Other Review Requirements

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Where to Obtain Additional Information

Information regarding the business aspects of this project may be obtained from Marsha Jones, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Pace Ferry Road, NE., Room 300, Mailstop E14, Atlanta, Georgia 30305, or by calling (404) 842-6575 or FTS 236-6575.

Information regarding the technical aspects of this project may be obtained from Gary West, Centers for Prevention Services, Centers for Disease Control, (404) 639-2790, or FTS 236-2790.

Dated: July 27, 1988.

Glenda S. Cowart,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88-17441 Filed 8-2-88; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 88N-0203]

Amarillo Blood Plasma, Inc.; Revocation of U.S. License No. 969

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 969) and the product license issued to Amarillo Blood Plasma, Inc., for the manufacture of Source Plasma. In a letter received by the agency on March 11, 1988, the firm requested that its establishment and product licenses be revoked and waived an opportunity for a hearing.

DATE: The revocation of the establishment and product licenses was effective on April 12, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8049.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 969) and the product license issued to Amarillo Blood Plasma, Inc., for the manufacture of Source Plasma. Amarillo Blood Plasma, Inc., was located at 310 South Taylor, Amarillo, TX 70101.

On February 2, through February 11, 1988, FDA inspected Amarillo Blood Plasma, Inc. This inspection revealed serious deviations from the applicable biologics regulations. These deviations included, but were not limited to: (1) Empoyees failed to adhere to the firm's standard operating procedure (SOP) for returning red blood cells to the donor in all instances (21 CFR 606.100(b)); (2) records of donor suitability determinations were not maintained concurrently with the performance of the work (21 CFR 606.160); and (3) donors showing a hematocrit change of 5 percent or greater from the previous donation were not referred to a physician as required by the firm's SOP and were subsequently bled without requisite physician's review and approval (21 CFR 606.100(b)(1)).

FDA's investigation revealed that Amarillo Blood Plasma, Inc., was operating in significant noncompliance with the Federal regulations. Among the violations were inadequate donor screening practices, overbleeding of donors, and labeling of Source Plasma to indicate that it was collected from a single donor when the blood actually was collected from two donors.

Because these deviations represented a significant danger to health, FDA suspended the establishment license (U.S. License No. 969) on February 25, 1988.

In a letter received by the agency on March 11, 1988 (dated February 5, 1988), Amarillo Blood Plasma, Inc., requested that its establishment and product licenses be revoked and waived an opportunity for a hearing. The agency granted the licensee's request by letter

to the firm dated April 12, 1988, issued under 21 CFR 601.5(a), which revoked the establishment license (U.S. License No. 969) and the product license for the manufacture of Source Plasma issued to Amarillo Blood Plasma, Inc. FDA has placed copies of the letters dated February 5, February 25, and April 12, 1988, on file under the docket number found in brackets in the heading of this notice with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.68, the establishment license (U.S. License No. 969) and the product license issued to Amarillo Blood Plasma, Inc., for the manufacture of Source Plasma were revoked effective April 12, 1988.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: July 26, 1988

Paul Parkman,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 88–17464 Filed 8–2–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88N–0154]

El Paseo Plasma, Inc.; Revocation of U.S. License No. 868

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 868) and the product license issued to El Paseo Plasma, Inc., for the manufacture of Source Plasma. In a letter dated February 19, 1988, the firm requested that its establishment and product licenses be revoked and waived an opportunity for a hearing.

DATE: The revocation of the establishment and product licenses was effective on April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph G. Wilczek, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8049.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 868) and product license issued to El Paseo Plasma, Inc., for the manufacture of Source Plasma. El Paseo Plasma, Inc., was located at 1595 El Paseo, Las Cruces, NM 88001.

On December 1 through December 18, 1987, FDA inspected El Paseo Plasma, Inc. This inspection revealed serious deviations from the applicable bioligics regulations. These deviations included, but were not limited to: (1) Donor suitability determinations, including predonation tests and medical history questions, were abbreviated or eliminated (21 CFR 640.63(c)); (2) a donor record file was falsified to conceal that the donor's red blood cells were not reinfused into the donor but were infused into another donor (21 CFR 640.63(e)); (3) the assistant manager acknowledged the practice of double-bagging, i.e., drawing a second unit of whole blood prior to reinfusion of the first unit of red blood cells (21 CFR 640.65(b)(6)); (4) scales used to weigh blood were not always standardized each day of use (21 CFR 640.60(b)); (5) intentionally inaccurate records of whole blood weights were made to conceal the collection of whole blood units which exceeded the maximum amount of blood allowed to be withdrawn (21 CFR 640.65(b)(6)); and (6) pooled Source Plasma from two or more donors was falsely labeled to indicate that the plasma was collected from one donor only (21 CFR 640.69(a)(1)).

Because the deviations represented a significant danger to health, FDA suspended the establishment license (U.S. License No. 868) on December 31, 1987.

FDA's investigation revealed that El Paseo Plasma, Inc., was operating in significant noncompliance with the Federal regulations and that these practices were intentional. Among the numerous willful violations were inadequate donor screening practices, the intended cover-up of a wrong red blood cell reinfusion, and the intentional maintenance of inaccurate records.

In a letter dated January 11, 1988, the firm proposed corrective actions, including the replacement of the firm's responsible head and alternate responsible head, and requested that revocation of license be placed in abeyance. Based on the willful nature of the violations discovered during the FDA inspection and investigation, FDA denied the firm's request.

As provided in 21 601.5(b), FDA issued a letter on February 10, 1988, notifying the licensee of FDA's intention to revoke U.S. License No. 868, setting forth grounds for the revocation, and offering an opportunity for a hearing on the proposed revocation. In a letter dated February 19, 1988, El Paseo Plasma, Inc., requested that its establishment and product licenses be revoked and waived an opportunity for a hearing. The agency granted the licensee's request by letter to the firm dated April 4, 1988, issued under 21 CFR 601.5(a), which revoked the establishment license (U.S. License No. 868), and the product license of El Paseo Plasma, Inc. FDA has placed copies of the letters dated December 31, 1987; January 11, February 10, February 19, and April 4, 1988, on file under the docket number found in brackets in the heading of this notice with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissoiner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.68, the establishment license (U.S. License No. 868) and product license issued to El Paseo, Inc., for the manufacture of Source Plasma were revoked effective April 4, 1988.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: July 26, 1988.

Paul Parkman,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 88–17465 Filed 8–2–88; 8:45 am]

BILLING CODE 4160–010–M

Allergenic Products Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Allergenic Products Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on July 9, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: July 25, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-17466 Filed 8-2-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78P-0148 et al.]

Approved Variances for Laser Light Shows; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 18 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (43 U.S.C. 263f), FDA has granted each of the 18 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical designs and by warnings in the user manuals and on the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date termination date
78P-0148 (renewal)	Laser Media, Incorporated, 2046 Armacost Avenue, Los Angeles, California 90025.	Laser Media, Inc. LM and LMS laser projection systems, the LMT and FiberRay fiber-optically coupled projector heads, and laser shows assembled and produced by Laser Media, Inc. which incorporate any of these projection devices and/or the StingRay, ChromeRay and DiscoRay Series projectors.	May 26, 1988-May 26, 1989.
78P-0295 (renewal)	Science Faction Corporation, 333 West 52nd Street, New York, New York 10019.	Class III or IV Science Faction SFC-2000 Series laser light show projectors and laser light shows assembled and produced by Science Faction Corporation incorporating those projectors.	May 9, 1988-May 16, 1990.
80P-0037 (renewal)	School of Music, University of Iowa, Iowa City, Iowa 52242.	University of Iowa Video/Laser III Class IV Laser projector and shows incorporating this projector.	Apr. 13, 1988-May 1, 1990.
80P-0151 (renewal)	Ms. Carol G. Fubini, Attorney-at-Law, Four Liberty Square, Boston, Massachusetts 02109.	Laser light shows manufactured and produced by Guptill Arena incorporating a Science Faction Model SFC-2003 laser projector.	Apr. 1, 1988-June 10, 1990.
81P-0001 (extension)	Lighting Systems Design, Incorporated, 4625 Old Winter Garden Road, Suite B-6, Orlando, Florida 32811.	Lighting Systems Design laser light shows and the incorporated Lighting Systems Design Lumin Projection System Series Projectors which contain Class IV ion lasers.	June 9, 1988-May 31, 1990.
83V-0204 (renewal)	Laser Optronics, P.O. Box 290, Nephi, Utah 84648.	Laser light shows assembled and produced by Laser Optronics incorporating the Class IV Audio-Visual Imagineering Model AVI S400 laser projection system.	Apri. 13, 1988-Sept. 27, 1989.
84V-0065 (renewal)	Southern California Gas Company, 810 South Flower Street, M.L. 202D, Los Angeles, California 90017.	Southern California Gas Company laser light show incorporating the Laser Media Stingray laser projector.	Apr. 20, 1988-May 17, 1990.
85V-0239 (renewal)	Laser Dreams, 7667 Bodega Avenue, Sebastopol, California 95472.	Laser Dreams laser light shows incorporating the Laser Dream Machine Model 1 laser projector with argon, helium-neon, and/or helium-cadmium lasers.	June 3, 1988-May 30, 1989.
86V-0090 (renewal)	Holo-Spectra, 7742-B Gloria Avenue, Van Nuys, California 91406.	Laser light shows assembled and produced by Holo-Spectra incorporating the firm's Class IV Spectrascan projection system with argon, krypton, and/or helium-neon lasers.	Apr. 4, 1988-Feb. 28, 1990
86V-0135 (renewal)	Mid-America Museum, Hot Springs, Arkansas 71913.	Laser light shows assembled and produced by Md-America Museum incorporating a Model C-3 Laser System Development Corporation Class IV laser projector.	Mar. 20, 1988-Apr. 14, 1990.
87V-0156	Sea World, 1100 Sea World Drive, Cleveland, Ohio 44202.	Sea World laser light show incorporating the Starlight Series One (FC) laser projection system.	June 3, 1988-June 3, 1990.
87V-0188	Stardust Hotel, 3000 Las Vegas Boulevard South, Las Vegas, Nevada 89109.	Stardust Hotel laser light shows incorporating the Laser Media Model LMS laser projection system.	June 9, 1988-June 9, 1990.
88V-0089	Laser Crossfire Incorported, 807 S. Xanthus Place, Tulsa, Oklahoma 74104.	Laser Crossfire Inc. laser light show which incorporates the Laser Media Model LMS laser projection system.	June 3, 1988-June 3, 1990.
88V-0126	Opryland Hotel, 2800 Opryland Drive, Nashville, Tennessee 37214.	Laser light shows, such as Harp Show 1 and Harp Show 2 assembled and produced by the Opryland Hotel incorporating in Image Engineering Model 360-OL Class IV laser projector.	Apr. 8, 1988-Apr. 8, 1990.
88V-0141	IBM Corporation, 590 Madison Avenue, New York, New York 10022.	IBM Corporation laser light show incorporating the MIT certified special projection system.	June 9, 1988-June 9, 1989.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date termination date
88V-0206	Night Magic, Incorporated, c/o Reno Hilton, 225 Sierra Street, Reno, Nevada 89501.	Laser light show assembled and produced by Night Magic, Incorporated, which employ the Model VLS-1 Class IV laser projector.	May 27, 1988-May 27, 1989.
88V-0211	Los Angeles Laser Light aka L.A. Laser Light, 10936 Gloria Avenue, Granada Hills, California 91344.	Los Angeles Laser Light SBS series laser projection systems and laser shows assembled and produced by Los Angeles Laser Light which incorporate these projectors.	June 9, 1988-June 9, 1990.
88V-0223	Universal Studios Tour, 100 Universal City Plaza, Universal City, California 91608.	Universal Studoes' Star Trek Aventure laser light show incorporating a Starlasers Class IIIb ion laster projection system.	June 9, 1988-June 9, 1998.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: July 26, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-17467 Filed 8-2-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Allocation of Bureau of Indian Affairs Operations and Maintenance (O&M) Program Using a Formula Methodology

July 25, 1988.

AGENCY: Office of Construction Management, Interior.

ACTION: Notice.

The Department of the Interior, Bureau of Indian Affairs, and Office of Construction Management, to strengthen the internal management and administration of the Facilities Management Program, are proposing to allocate Facilities Operations and Maintenance funding using an equitable distribution process at education and non-education locations beginning with the 1989 fiscal year. The proposed method of allocation, using the proposed formula funding, would be based on the following criteria:

1. The square feet of the Bureau funded facilities;

2. For educational facilities, comparable O&M costs related to public schools;

3. Historical utility costs for the specific Bureau funded facility locations;

4. The age, size, condition, and location of the Bureau funded facilities;

5. For educational facilities, the utilization level of the Bureau funded facilities based on numbers of students in admission; and

6. The historical cost of support programs, such as fire protection and minor equipment replacement, training, pest control, security, communications and contract monitoring.

DATES: Written comments must be received on or before August 15, 1988. Oral comments will be accepted at the following regional meetings on the dates listed under addresses.

ADDRESSES: Regional Consultation meetings will be held at the following locations:

Address	Date	Time
Holiday Inn (I-66 and Glebe Rd.), 4610 North Fairfax Dr., Arlington, VA.	8/22/88	9:00 a.m.-1:00 p.m.
Normandy Inn, 405 S. Eighth Street, Minneapolis, MN.	8/24/88	9:00 a.m.-1:00 p.m.
Federal Building, 517 Gold Street, Room 4210, Albuquerque, NM.	8/26/88	9:00 a.m.-1:00 p.m.
Cypress Inn, 9040 S.E. Adams St., Clackamas, OR.	8/30/88	9:00 a.m.-1:00 p.m.

SUPPLEMENTARY INFORMATION: The Assistant Secretary, Bureau of Indian Affairs, was mandated by the Congress of the United States pursuant to Pub. L. 95-961 and Title 5, Amendment to Title 11 of the Education Amendments of 1978 (25 U.S.C. 2006) Sec 504, d1.) to establish a program, to include the distribution of appropriated funds, for the operation and maintenance of education facilities which provides a methodology of computing the amount necessary for each education facility and to provide similar treatment for Bureau as well as contract schools. The Director, Office of Construction Management was also mandated in reports and accompanying Appropriations Bill Language for FY 1986, FY 1987 and FY 1988 to develop an equitable and per pupil O&M funding formula for Bureau funded school facilities.

The objectives of the proposed funding formula are as follows:

1. Develop a means of identifying and justifying O&M needs for both educational and non-educational facilities;

2. For educational facilities, develop a means of allocating resources in an equitable manner;

3. Promote greater efficiency by providing resources only for pupil needs, thereby reducing under-utilization of educational facilities;

4. Provide a basis whereby local managers can anticipate future needs and funding resources;

5. For education facilities, develop a simple, realistic formula based on readily available national and regional data from existing Bureau systems; and

6. Further reduce the Facilities Improvement and Repair (FI&R) backlog and support preventative maintenance needs by reallocating savings achieved by this funding mechanism to fund needs at the local facilities where savings occurred.

The formula is to serve as a basis for allocation of funds on an Area and Agency-wide basis for Bureau funded facilities. It is the intent, to utilize the proposed formula allocation process for the FY 1989 allocation.

Formula:

$$\text{Funding (O\&M)} = U + [A * I[(K1 * Fw) + (Km) + (Ko)]] - Fu + Fc + Fi + Fs$$

where:

F(O&M) = Estimated O&M funding need per building.

U = Historical annual electricity and fuel costs—3 year average. Total location costs will be prorated to each building via FACCOM. At contract locations where data does not exist, cost for similar nearby facilities will be applied.

A = Building square feet per inventory

K = Regional Public School (PS) cost/SF less Fuel & Electricity.

K1 = Regional PS labor costs, per SF.
Km = Regional PS material costs, per SF.
Ko = Costs not covered by PS Budgets, per SF.
I = (O&M) index to apply weight of Building vs. School.
Fw = BIA wage rate/PS wage rates.
Fu = Utilization factor-weighted scale.
Fc = Condition factor-weighted scale.
Fi = Isolation factor-weighted scale.
Fs = Economy of size-weighted scale.

Extra costs for highly maintained grounds, water/sewer systems are incorporated.

Comments Invited: Interested parties are invited to participate in the development of an Operations and Maintenance formula by submitting written views, data and/or arguments as they may desire, or attend a regional consultation meeting to present orally their views, data, and/or arguments as they may desire. Written comments must be received on or before August 15, 1988. Oral comments will be accepted at the regional consultation meetings.

FOR FURTHER INFORMATION CONTACT: Arthur M. Love, Jr., Director, Office of Construction Management, Department of the Interior, 18th & C Streets NW., Mail Stop 2415, Washington, DC 20240 (202) 343–2403.

Rick Ventura,

Assistant Secretary, Policy, Budget & Administration.

[FR Doc. 88–17410 Filed 8–2–88; 8:45 am]

BILLING CODE 4310–RK–M

Bureau of Land Management

[ID–020–08–4212–13]

Amendment of the Malad Hills Management Framework Plan (MFP); Exchange of Public Land in Oneida County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of the Malad Hills Management Framework Plan (MFP)/ Notice of realty action, exchange of public land in Oneida County, Idaho.

NOTICE: Notice is hereby given that the BLM has amended the Malad Hills MFP to allow for transfer of certain public lands in exchange for privately owned lands in Oneida County, Idaho.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Public lands to be transferred are described as:

T.14S., R.30E., Boise Meridian

Sec. 28: E½, SE¼NW¼.
(360 acres)

Non-Federal lands to be acquired are described as:

T. 15S., R.29E., Boise Meridian

Sec. 24: SW¼, W½SE¼, SE¼SE¼;
Sec. 25: NE¼,NE¼, NW¼NW¼.
(360 acres)

Purpose of this exchange is to acquire the non-Federal lands which have high public values for grazing, wildlife habitat, and recreation. Acquisition of those lands will consolidate the public land ownership in the area.

This will make the management of public lands in the area more efficient and cost effective. The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Mr. Blaine Wight of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions: ditches and canals, oil and gas to U.S., and a road fight-of-way to the U.S. for portions of the Glen Canyon road as shown on the 1973 Juniper, Idaho, 7.5 minute U.S.G.S. quadrangle topographic map. Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the land exchange can be obtained by contacting Wes Duggan, Deep Creek Realty Specialist, at (208) 766–4766.

Planning Protest

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street, NW., Washington, DC 20240, within 30 days of this notice.

Land Exchange Comments:

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the land exchange to the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, ID 83318. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the land exchange, this realty action will become final determination of the Department of the Interior and the planning amendment will be in effect.

Date: July 26, 1988.

Marvin R. Bagley,

Associate District Manager.

[FR Doc. 88–17396 Filed 8–2–88; 8:45 am]

BILLING CODE 4310–GG–M

[Mt–020–08–4322–02]

Montana; Miles City District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: District Grazing Advisory Board meeting notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that the Miles City District Grazing Advisory Board will meet September 16, 1988. The meeting will begin at 10 a.m. in the conference room of the Miles City District Office, Bureau of Land Management, Garryowen Road, Miles City, Montana 59301.

The agenda for the Grazing Advisory Board meeting includes presentations on the effects of the 1988 drought, results of the nomination and election process for the 1989–90 District Grazing Advisory Board, discussion of planned range improvement projects, an update on monitoring plans, and new regulations and new business.

The meeting is open to the public. The public may make oral statements before the board or file written statements for their consideration. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Date: July 26, 1988.

Mat Millenbach,

District Manager.

[FR Doc. 88–17445 Filed 8–2–88; 8:45 am]

BILLING CODE 4310–DN–M

[NV-020-4322-02]

Winnemucca District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Winnemucca District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and section 3, Executive Order 12548, February 14, 1986, that a meeting of the Winnemucca District Grazing Advisory Board will be held on September 8, 1988. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include:

1. Public Statement—10:00 a.m.
2. Allotment Evaluation Update.
3. Drought Situation.
4. Monitoring Update.
5. Range Improvement funds:

FY 88 Projects
FY 89 Projects

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make oral statements should notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by August 19, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Gerald P. Brandvold,

Acting District Manager.

Dated: July 26, 1988.

[FR Doc. 88–17446 Filed 8–2–88; 8:45 am]

BILLING CODE 4310-HC-M

[CA-940-07-5410-ZBKE; CACA 21919]

Realty Action; Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private lands described in this notice, aggregating 8.924 acres, are segregated and made unavailable for filings under the public land laws, including the mining laws, to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, California State Office, Federal Office Building, 2800 Cottage Way, Room 2841, Sacramento, California 95825, (916) 978–4815.

Serial No. CACA 21919

T. 1 N., R. 2 E., Mount Diablo Meridian.
Sec. 2, fractional S1/2SE1/4.

County—Contra Costa. Minerals Reservation—50% all minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, whichever occurs first.

Dated: July 26, 1988.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 88–17447 Filed 8–2–88; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Alaska Outer Continental Shelf; Public Scoping Meeting Regarding the Environmental Impact Statement for Proposed Oil and Gas Lease Sale No. 114; Gulf of Alaska/Cook Inlet

The May 18, 1988, **Federal Register** contained a Notice of Intent to prepare an environmental impact statement (EIS) for proposed oil and gas Lease Sale No. 114, Gulf of Alaska/Cook Inlet.

The Notice of Intent for the proposed sale announced the scoping process that will be followed for the preparation of each EIS. The scoping process will involve Federal, State, and local governments and other interested parties aiding the Minerals Management Service in determining the significant issues and alternatives to be analyzed in the EIS. This will be done through scoping meetings.

The area included in this sale is described in the **Federal Register** Notice mentioned above. It is hoped that the information received at the scoping meetings will aid in identifying specific proposals and alternatives.

Scoping meetings will be held as follows:

August 17, 1988, Elementary School, 7:00 to 9:00 p.m., Cordova, Alaska
August 18, 1988, City Council Chambers, 7:00 to 9:00 p.m., Yakutat, Alaska
August 24, 1988, City Council Chambers, 7:00 to 9:00 p.m., Kenai, Alaska
August 25, 1988, City Council Chambers, 7:00 to 9:00 p.m., Homer, Alaska
September 12, 1988, Assembly Chambers, 7:00 to 9:00 p.m., Kodiak, Alaska

Additional information concerning these meetings can be obtained from: Minerals Management Service, Alaska OCS Region, Leasing and Environment Office, Attention: Michael Baffrey, 949 East 36th Avenue, Anchorage, AK 99508.

The telephone number is (907) 261–4677.

Robert J. Brock,

Acting Regional Director, Alaska OCS Region.

[FR Doc. 88–17448 Filed 8–2–88; 8:45 am]

BILLING CODE 4310-MR-M

Royalty Management Advisory Committee Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service hereby gives notice that the Royalty Management Advisory Committee will hold a meeting in Denver, Colorado, at the location and on the dates indicated below. This meeting will include a briefing of recent systems improvement efforts in the Royalty Management Programs as well as plans for further improvements; a briefing of recent regulatory actions for oil, gas, and coal product valuation; and a presentation of Indian royalty payment processing functions. The Advisory Committee will make recommendations to the Secretary of the Interior, as appropriate.

LOCATION AND DATE: The Advisory Committee meeting will be held at the

Sheraton Denver Tech Center Hotel, 4900 Denver Tech Center Parkway, Denver, Colorado, on September 8 and 9, 1988. The Committee will meet from 9 a.m. to 5 p.m. on September 8 and from 8 a.m. to 3 p.m. on September 9.

The meeting will be open to the public. Public attendance may be limited by the space available. Members of the public will be given an opportunity to address the Committee and questions from the public will be addressed at a designated time during each session. Written statements should be submitted by September 2, 1988, to the address listed below. Minutes of this meeting will be available for public inspection and copying by October 15, 1988, at the same address.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 651, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: The Royalty Management Advisory Committee was established for a 2-year period by the Secretary of the Interior in August 1985, to provide advice and recommendations on different elements of the Royalty Management Program. This will be the initial meeting of the Committee operating under a new charter approved in 1987 by the Secretary of the Interior with 27 appointed committee members representing the diversified interests of Indian Tribes and allottees, State governments, and the minerals industry.

Date: July 27, 1988.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 88–17449 Filed 8–2–88; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7340.

Title: 30 CFR Chapter VII, Subchapter B—Initial Program Regulations; Adoption of State Standards—Part 718.

Abstract: Information collected in § 718.1(b) is used to determine whether State laws or regulations contain more stringent standards than the Federal requirements in 30 CFR Parts 715, 716 or 717.

Bureau Form Number: None.,

Frequency: On occasion.

Decription of Respondents: State regulatory authorities.

Estimated Completion Time: One hour.

Annual Responses: One.

Annual Burden Hours: One.

Bureau Clearance Officer: Nancy Ann Baka, (202) 343–5981.

Date: July 12, 1988.

Richard O. Miller,

Chief, Regulatory Development and Issues Management.

[FR Doc. 88–17400 Filed 8–2–88; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–131(b)–12]

Tropical Products; Probable Economic Effects on U.S. Industries and Consumers of Elimination of U.S. Tariffs

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation under section 131(b) of the Trade Act of 1974 (19 U.S.C. 2151(b)) and scheduling of public hearing.

EFFECTIVE DATE: July 22, 1988.

FOR FURTHER INFORMATION CONTACT: Lowell Grant (202–252–1312) or Aaron Chesser (202–252–1380), Office of Industries, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel at 202–252–1091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION: The Commission instituted the investigation, No. TA–131(b)–12, on July 22, 1988, following receipt of a request from the U.S. Trade Representative (USTR) on July 6, 1988. As requested by the USTR, the Commission in its report on this investigation will advise the President, with respect to each item on a list of 15 product categories provided by the USTR, as to the probable economic effect of the staged elimination of U.S. duties on industries in the United States producing like or directly competitive products, and on consumers. The articles that may be considered for elimination of U.S. duties are listed, by Harmonized Tariff Schedule item number, in the annex to this notice.

According to the USTR's request, the list of 15 product categories reflects work conducted by the GATT Committee on Trade and Development and is being used to provide an interim basis for proceeding with present work in this area. However, the USTR indicated that the list has not been accepted by the United States as constituting a definition of tropical products in the Uruguay Round negotiations.

As requested by the USTR, the Commission will submit its advice by October 31, 1988.

Public Hearing: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC 20436, beginning at 9:30 a.m., on September 7, 1988, to be continued on September 8, 1988, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing and prehearing briefs (a signed original and fourteen (14) copies) should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than noon, August 29, 1988. Post-hearing briefs are required by September 19, 1988.

Written Submissions: Interested persons are invited to submit written statements concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. All written submissions to the Commission must be received by or before 12:00 noon on September 19, 1988. A signed original and 14 copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for

public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Trade Act of 1974, section 131(b).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 27, 1988.

Annex

Articles Which May Be Considered for Elimination of U.S. Duties

Tropical Products

Articles provided for in the subheadings of the proposed Harmonized Tariff Schedules of the United States (HTSUS) which are listed below and which are not annotated with an asterisk may be considered for the elimination of U.S. import duties and are the subject of the request for advice of the U.S. International Trade Commission.

Subheadings listed below which are annotated with an asterisk are included in the indicative list of tropical products developed by the GATT Committee on Trade and Development, but such subheadings currently have a Column 1 rate of duty of "free" in the HTSUS, and the duty-free status is bound in the U.S. Schedule annexed to the GATT.

I. Tropical Beverage Items

Coffee and Products

0901.11.00*	0901.22.00*	2101.10.40
0901.12.00*	0901.30.00*	
0901.21.00*	2101.10.20	

Cocoa and products

1801.00.00*	1803.10.00*	1804.00.00*
1802.00.00*	1803.20.00	1805.00.00

Tea and instant tea

0902.30.00*	2101.20.20*
0902.40.00*	2101.20.40

II. Spices, Flowers, Plants, etc.

Spices and Essential Oils—Tropical

0904.11.00*	0905.00.00*	0908.30.00*
0904.12.00*	0906.10.00*	0909.10.00*
0904.20.20	0906.20.00*	0909.20.00*
0904.20.40	0907.00.00*	0909.30.00
0904.20.60	0908.10.00*	0909.40.00*
0904.20.70	0908.20.20	0909.50.00*
0904.20.80*	0908.20.40*	0910.10.20*
0910.10.40	0910.99.20*	3301.29.10
0910.20.00*	0910.99.40	3301.29.20
0910.30.00*	0910.99.50*	3301.29.50*
0910.40.20*	0910.99.60	3301.30.10
0910.40.30	3301.14.00*	3301.30.50*
0910.40.40	3301.21.00*	3301.90.00*
0910.50.00*	3301.22.00*	
0910.91.00	3301.26.00*	

Cut Flowers

0603.10.30	0603.10.70	0603.90.00
0603.10.60	0603.10.80	

Plants, Vegetable Materials, Lacs, etc.

0602.10.00	1402.10.00*	4602.10.13
0602.99.20*	1402.91.00	4602.10.19
0602.99.30	1402.99.00*	4602.10.21
0602.99.40	1403.10.00	4602.10.22
0602.99.60	1403.90.20	4602.10.23
0602.99.90	1403.90.40	4602.10.25
1211.90.20*	1404.10.00*	4602.10.29
1211.90.40	1404.90.00*	4602.10.40
1211.90.60	1521.10.00	4602.10.50
1211.90.80*	1521.90.20	9401.50.00
1301.10.00*	1521.90.40*	9401.90.10
1301.20.00*	3203.00.10*	9401.90.25
1301.90.40	3203.00.50	9401.90.35
1301.90.90*	4601.10.00	9401.90.50
1302.14.00*	4601.20.20	9403.80.30
1302.19.20*	4601.20.40	9403.80.60
1302.19.40	4601.20.60	9403.90.10
1302.19.90*	4601.20.80	9403.90.25
1302.39.00	4601.20.90	9403.90.40
1401.10.00*	4601.91.20	9403.90.50
1401.20.20*	4601.91.40	9403.90.60
1401.20.40	4602.10.05	9403.90.80
1401.90.20	4602.10.11	
1401.90.40	4602.10.12	

III. Certain Oilseeds, Vegetable Oils and Oil Cakes

1202.10.00	1513.19.00*	1519.19.20
1202.20.00	1513.21.00*	1519.19.40
1203.00.00	1513.29.00* [2]	1519.20.00
1207.10.00	1515.30.00	1519.30.20
1207.60.00*	1515.60.00	1519.30.40
1207.92.00*	1515.90.20	1519.30.60
1207.99.00*	1515.90.40	1520.10.00
1208.90.00	1516.20.10	1520.90.00
1508.10.00	1516.20.90	2305.00.00
1508.90.00	1518.00.20	2306.50.00
1511.10.00 [1]	1518.00.40	2306.60.00
1511.90.00 [1]	1519.11.00	2306.90.00
1513.11.00*	1519.12.00	

IV. Tobacco, Rice, and Tropical Roots

Tobacco and Tobacco Products

2401.10.20	2401.20.40	2402.10.30
2401.10.40	2401.20.60	2402.10.60
2401.10.60	2401.20.80	2402.10.80
2401.10.80	2401.30.30*	2402.20.10
2401.20.05	2401.30.60	2402.20.80
2401.20.20	2401.30.90	2402.20.90

Rice

1006.10.00	1006.30.10	1102.30.00
1006.20.20	1006.30.90	1103.14.00
1006.20.40	1006.40.00	

Manioc and Other Tropical Roots, and Products Thereof

0714.10.00	0714.90.50*	1903.00.20*
0714.90.10	0714.90.60	1903.00.40
0714.90.20	1106.20.00*	
0714.90.40	1108.14.00*	

V. Tropical Fruits and Nuts

Bananas and Banana Products

0803.00.20* [3]	0811.90.10	2008.99.15
0803.00.30*	1106.30.20	
0803.00.40	2008.99.13	

Other Tropical Fruits and Nuts and Products

0801.10.00*	0813.40.40	2008.19.15
0801.20.00*	0813.40.80	2008.19.20
0801.30.00*	0813.40.90	2008.19.25
0802.90.10	0813.50.00	2008.19.30
0802.90.15	1106.30.40	2008.19.40
0802.90.20	2001.90.10	2008.19.50
0802.90.25	2001.90.20	2008.19.85
0802.90.80	2001.90.25	2008.19.90
0802.90.90	2001.90.30	2008.20.00
0804.10.20	2001.90.35	2008.91.00
0804.10.40	2001.90.40	2008.92.10
0804.10.60	2001.90.42	2008.92.90
0804.10.80	2001.90.45	2008.99.05
0804.30.20	2001.90.50	2008.99.10
0804.30.40	2001.90.60	2008.99.18
0804.30.60	2006.00.20	2008.99.20
0804.40.00	2006.00.30	2008.99.23
0804.50.40	2006.00.40	2008.99.25
0804.50.60	2006.00.50	2008.99.28
0804.50.80	2006.00.60	2008.99.29
0807.20.00	2006.00.70	2008.99.30*
0810.90.20* [4]	2006.00.90	2008.99.35
0810.90.40	2007.10.00	2008.99.40
0811.90.20*	2007.99.05	2008.99.42
0811.90.22	2007.99.10	2008.99.45
0811.90.25	2007.99.15	2008.99.50
0811.90.30*	2007.99.20	2008.99.60
0811.99.35	2007.99.25	2008.99.61
0811.90.40	2007.99.30*	2008.99.63
0811.90.50	2007.99.35	2008.99.65
0811.90.55	2007.90.40	2008.99.80
0811.90.60	2007.99.45	2008.99.90
0812.90.10	2007.99.48	2009.40.20
0812.90.20	2007.99.50	2009.40.40
0812.90.30	2007.99.55	2009.80.20*
0812.90.40	2007.99.60	2009.80.40
0812.90.90	2007.99.65	2009.80.60
0813.40.10	2007.99.70	2009.80.80
0813.40.15	2007.99.75	2009.90.20
0813.40.20	2008.11.00	2009.90.40
0813.40.30	2008.19.10*	

VI. Tropical Wood and Rubber

Tropical Wood and Wood Products

4403.10.00*	4412.12.05	4421.90.70*
4403.31.00*	4412.12.10	4421.90.80
4403.32.00*	4412.12.15	4421.90.85
4403.33.00*	4412.12.20	4421.90.88*
4403.34.00*	4412.12.50	4421.90.90
4403.35.00*	4414.00.00	9401.61.20
4403.99.00*	4418.20.00	9401.61.40
4407.21.00*	4418.30.00	9401.61.60
4407.22.00*	4418.50.00	9401.69.20
4407.23.00*	4418.90.20*	9401.69.40
4407.99.00*	4418.90.40	9401.69.60
4408.20.00*	4419.00.40	9401.69.80
4408.90.00* [5]	4419.00.80	9401.90.15
4409.20.10*	4420.10.00	9401.90.40
4409.20.25*	4420.90.20	9403.30.40
4409.20.40*	4420.90.40	9403.30.80
4409.20.50	4420.90.60	9403.40.40
4409.20.60*	4420.90.80	9403.40.60
4409.20.65	4421.10.00	9403.40.90
4409.20.90*	4421.90.10	9403.50.40
4410.10.00	4421.90.15*	9403.50.60
4410.90.00*	4421.90.20	9403.50.90
4412.11.05	4421.90.30	9403.60.40
4412.11.10	4421.90.40	9403.60.80
4412.11.20	4421.90.50	9403.90.70
4412.11.50	4421.90.60	

Natural Rubber and Rubber Products

4001.10.00*	4006.90.10	4009.20.00
4001.21.00*	4006.90.50	4009.30.00
4001.22.00*	4007.00.00	4009.40.00
4001.29.00*	4008.11.10	4009.50.00
4001.30.00*	4008.11.50	4011.10.00
4005.10.00*	4008.19.10	4011.20.00
4005.20.00*	4008.19.50	4011.40.00
4005.91.00*	4008.21.00	4011.50.00
4005.99.00*	4008.29.00	4011.91.10*
4006.10.00	4009.10.00	4011.91.50

4011.99.10*	4015.11.00	4016.95.00
4011.99.50	4015.19.10	4016.99.03
4013.10.00	4015.19.50	4016.99.05
4013.20.00	4015.90.00	4016.99.10
4013.90.10*	4016.10.00	4016.99.15
4013.90.50	4016.91.00	4016.99.20
4014.10.00	4016.92.00	4016.99.25
4014.90.10	4016.93.00	4016.99.50
4014.90.50	4016.94.00	4017.00.00

VII. Jute and Hard Fibers

5303.10.00*	5311.00.40	5702.39.10
5303.90.00*	5311.00.60	5702.39.20
5304.10.00*	5607.10.00	5702.49.10
5304.90.00*	5607.21.00*	5702.49.15
5305.11.00*	5607.29.00	5702.49.20
5305.19.00*	5607.30.10*	5702.59.10
5305.21.00*	5607.30.20	5702.59.20
5305.29.00*	5608.90.10	5702.99.10
5305.91.00*	5608.90.20	5702.99.20
5305.99.00*	5608.90.30	5703.90.00
5307.10.00	5609.00.10	5705.00.10*
5307.20.00	5609.00.20	5705.00.20
5308.10.00*	5609.00.30	5905.00.10*
5308.90.00	5609.00.40	5905.00.90
5310.10.00*	5701.90.10	6305.10.00*
5310.90.00	5701.90.20	6305.90.00
5311.00.20	5702.20.10	
5311.00.30	5702.20.20*	

[1] Palm oil and its fractions imported to be used in the manufacture of iron or steel products, or of tin plate or terne plate are bound free of duty in the GATT.

[2] Palm kernel oil unfit for use as food is not bound free of duty in the GATT.

[3] Dried bananas are not bound free of duty in the GATT.

[4] Kiwi fruit is not bound free of duty in the GATT.

[5] Reinforced or backed decorative wood veneers, not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the wood are not bound free of duty in the GATT.

[FR Doc. 88-17493 Filed 8-2-88; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Applications to Consolidate, Merge, or Acquire Control

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. If the protest includes a request for oral hearing, the request shall meet the requirements of 49 CFR 1182.3 and shall include the required certification. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Application(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notification of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Findings

The findings for these applications are set forth at 49 CFR 1182.6.

MC-F-19206, filed July 8, 1988. Greyhound Lines, Inc. (Greyhound) (Suite 2500, 901 Main Street, Dallas, TX 75202)—Purchase—Scenic Trails, Inc., d/b/a Scenic Trailways (Scenic) (2 Copeland Avenue, LaCrosse, WI 54603).

Representatives: Fritz R. Kahn and William C. Evans, Suite 1000, 1660 L Street, NW., Washington, DC 20036.

Greyhound, a motor common carrier of passengers pursuant to MC-1515 and related subs, seeks authority to purchase the interstate and intrastate, regular-route operating authorities of Scenic, a motor common carrier of passengers in interstate and intrastate commerce. The operating authority to be transferred is contained in Certificate No. MC-135552 and Sub-Nos., which authorize the transportation of passengers and package express over a system of regular routes in the States of CO, IL, IN, IA, KS, MD, MI, MN, MO, NE, ND, OH, PA, SD, TX, VA, and WI and DC. Scenic operates regular-route service generally between Minneapolis, MN, and Pittsburgh, PA, via Chicago, IL, serving points in MN, WI, IL, IN, OH, and PA. Approval is also sought for the transfer of Scenic's intrastate, regular-route authorities, granted by this Commission pursuant to 49 U.S.C. 10922(c)(2). Scenic will retain its operating authority to transport passengers in charter and special operations.

Temporary authority under 49 U.S.C. 11349 was granted to Greyhound on July 20, 1988. Greyhound is an indirect wholly owned subsidiary of GLI Holding Company, which indirectly controls BusLease Contract Services, Inc. (MC-193190). GLI Holding Company also has exercised options to purchase Vermont Transit Co., Inc. (MC-45626), and Texas, New Mexico, Oklahoma Coaches, Inc. (MC-61120), but has not yet consummated the transactions. These control relationships of GLI Holding Company were approved by the Commission in Docket MC-F-18260.

In Finance Docket No. MC-F-18505, the Commission approved the purchase by GLI Acquisition Company, an indirect wholly owned subsidiary of GLI Holding Company, of the operating authorities and principal assets of Trailways Lines, Inc. It also approved the acquisition by GLI Acquisition Company of Trailways' 50 per cent stock interest in Continental Panhandle Lines, Inc. In addition, Greyhound holds temporary authority in No. MC-F-19167 to lease the operating rights of S.B. & E. Transportation Company, d/b/a Pacific Trailways.

Decided: July 27, 1988.

By the Commission, the Motor Carrier Board, Members Johnson, Grossman, and Thomas.

Noreta R. McGee,

Secretary.

[FR Doc. 88-17425 Filed 8-2-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 74)]

Missouri Pacific Railroad Co.; Abandonment in Johnson County, AR

The Commission has issued a Decision and Certificate authorizing Missouri Pacific Railroad Company to abandon its 8.8-mile rail line between milepost 435.6 (near Clarksville Jct.) and milepost 444.4, (near Clarksville) in Johnson County, Arkansas. The decision and Certificate will become effective 30 days after publication in the **Federal Register** unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and it is likely that the assistance would fully compensate the railroad.

Requests for public use conditions must be filed with the Commission and the railroad within 10 days after publication.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27. Requests for public use conditions must conform with 49 CFR 1152.28(a)(2).

Decided: July 27, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Lamboley did not participate in the disposition of this proceeding.

Noreta R. McGee,

Secretary.

[FR Doc. 88-17426 Filed 8-2-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

July 29, 1988.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and, (7) an indication as to whether section 3504(h) of Pub. L. 96-511 applies.

Comments and/or questions regarding the item(s) contained in this notice, especially regarding the estimated response time, should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395-7340 AND to the Department of Justice's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer AND the Department of Justice's Clearance Officer of your intent as soon as possible.

The Department of Justice's Clearance Officer is Larry E. Miesse who can be reached on (202) 633-4312.

New Collection

(1) Cuban Detainees.

(2) No form number, Office of the Associate Attorney General.

(3) One time.

(4) Individuals and households. This form is required to provide necessary information for decisions under the Department's Cuban Detainee Review Program.

(5) 2,200 respondents at .5 hours each.

(6) 1,100 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Extention of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Return A—Monthly Return of Offenses Known to the Police, Supplement to Return A.

(2) Return: DO-65/65a; Supplement: DO-57/57a. Federal Bureau of Investigation.

(3) Monthly.

(4) State or local governments. Return A collects information regarding crime throughout the United States. The supplement collects information regarding property stolen and recovered. Data from both are published in the comprehensive annual "Crime in the United States."

(5) Return: 2,155 respondents monthly at .5 hours each. Supplement: 2,155 respondents monthly at .5 hours each.

(6) 12,930 estimated annual burden hours for Return. 12,930 estimated annual burden hours for Supplement.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 88-17428 Filed 8-2-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act; Escambia County Utilities Authority et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 25, 1988, a proposed Consent Decree in United States v. Escambia County Utilities Authority, et al., Civil Action No. 88-30249/RV, was lodged with the United States District Court for the Northern District of Florida. The Complaint sought penalties and injunctive relief against the Escambia County Utilities Authority ("Authority") and the State of Florida under section 309 of the Clean Water Act, 33 U.S.C. 1319, for the Authority's violations of effluent limitation provisions of its National Pollutant Discharge Elimination System (NPDES) permit. The Authority's violations included discharging in violation of permit limitations, and failure to construct sufficient plant improvements to meet the effluent limitations contained in the permit.

The proposed Consent Decree imposes a permanent injunction against future violations of the Clean Water Act, and imposes a court-ordered compliance schedule to require the Authority to construct the necessary facilities and improvements to bring its discharges within the terms and limitations of its NPDES permit. It also imposes a civil penalty of $120,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. Comments should refer to United States v. Escambia County Utilities Authority, DJ Ref. 90-5-1-1-3058.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of Florida, 100 N. Palafox St., Room 307, Pensacola, Florida 32501, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1732(R), Ninth Street and Pennsylvania Avenue NW., Washington, DC 20044. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction cost) payable to the "Treasurer of the United States".

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-17398 Filed 8-2-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act in United States v. Parish of St. John the Baptist and the State of Louisiana

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on July 19, 1988, a proposed Consent Decree in United States v. Parish of St. John The Baptist and The State of Louisiana, Civil Action No. 88-3090 F/5 was lodged with the United States District Court for the Eastern District of Louisiana.

The complaint in this enforcement action was filed on July 19, 1988, against the Parish of St. John The Baptist ("the Parish") under sections 309 (b) and (d) of the Clean Water Act ("the Act"), 33 U.S.C. 1319 (b) and (d), seeking civil penalties and other relief for the discharge of pollutants into the navigable waters of the United States in violation of National Pollution Discharge Elimination System ("NPDES") permits issued to the Parish. The proposed Consent Decree ("Decree") requires the Parish to undertake a comprehensive program, in accordance with a compliance schedule, to attain and thereafter maintain compliance with the NPDES permits' discharge limits. It further provides for stipulated penalties for failure to comply with the Decree and for payment of a $55,000 civil penalty for past violations of the Act.

The Department of Justice will receive, a for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to United States v. Parish of St. John The Baptist and The State of Louisiana, D.J. No. 90–5–1–1–3009.

The proposed Consent Decree may be examined at the office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana and at the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, U.S. Department of Justice, 9th and Pennsylvania Avenue NW., Washington, DC 20530. In requesting a copy please enclose a check in the amount of $1.50 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–17399 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–01–M

Lodging a Consent Decree Pursuant to the Safe Drinking Water Act; Whiskey Run Water Association

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 19, 1988 a proposed Consent Decree in United States v. Whiskey Run Water Association, Civil Action No. 83–1175, was lodged with the United States District Court for the Middle District of Pennsylvania.

The Consent Decree filed by the United States settles a contempt motion filed with the District Court on March 6, 1987. The motion for contempt alleged that Whiskey Run had not complied with the Court's Order of March 12, 1984, which required Whiskey Run to remedy violations of the Safe Drinking Water Act, 42 U.S.C. 300f. The Consent Decree requires Whiskey Run to install a raw water disinfection system, and assesses a civil penalty of $250.00.

The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Divison, Department of Justice, Washington, DC 20530, and should refer to United States v. Whiskey Run Water Association, DOJ# Ref. 90–5–1–1–1640A. The proposed Consent Decree may be examined at the office of the United States Attorney, Middle District of Pennsylvania, Suite 309, Federal Building, Washington & Linden Streets, Scranton, Pennsylvania, 18501. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. The Consent Decree is 12 pages long and copying costs are $.10 per page, so when requesting a copy of the decree, please enclose a check or money order for $1.20 made out to: "The United States Treasurer."

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–17397 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

[Docket No. 87–84]

Harry Aylor, D.D.S., Winston-Salem, NC; Hearing

Notice is hereby given that on December 8, 1987, the Drug Enforcement Administration, Department of Justice, issued to Harry Aylor, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, August 9, 1988, commencing at 10:00 a.m., at the United States Tax Court, United States Post Office and Courthouse, Room 207, 101 West Fifth Street, Winston-Salem, North Carolina.

Dated: July 27, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–17416 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 87–72]

J L B, Inc., d/b/a Boyd Drugs; Hearing

Notice is hereby given that on October 5, 1987, the Drug Enforcement Administration, Department of Justice, issued to J L B, Inc., d/b/a Boyd Drugs, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AJ3023467 and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, August 30, 1988, commencing at 10:00 a.m., at the Jefferson Circuit Court, New Hall of Justice Building, 600 West Jefferson Street, 3rd Floor, Louisville, Kentucky.

Dated: July 27, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–17417 Filed 8–2–88; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 88–2]

Robert G. Crummie, M.D., Fayetteville, NC; Hearing

Notice is hereby given that on December 9, 1987, the Drug Enforcement Administration, Department of Justice, issued to Robert G. Crummie, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AC2497825 and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, August 10, 1988, commencing at 10:00 a.m., at the United States Tax Court, United States Post Office and Courthouse, Room 207, 101 West Fifth Street, Winston-Salem, North Carolina.

Dated: July 27, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88-17418 Filed 8-2-88; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-8]

L J B, Inc., d/b/a Jeff's Prescription Shop; Hearing

Notice is hereby given that on December 22, 1987, the Drug Enforcement Administration, Department of Justice, issued to L J B, Inc., d/b/a Jeff's Prescription Shop, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AJ3029851 and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, August 30, 1988, commencing at 10:00 a.m., at the Jefferson Circuit Court, New Hall of Justice Building, 600 West Jefferson Street, 3rd Floor, Louisville, Kentucky.

Dated: July 27, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88-17419 Filed 8-2-88; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-13]

Raymond Lyman, D.M.D.; Revocation of Registration

On January 25, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (Order) to Raymond Lyman, D.M.D., 28 N. Main St., Blanding, Utah (Respondent). The Order proposed to revoke Respondent's DEA Certificate of Registration, AL2383862, on grounds that Respondent is not currently authorized to handle controlled substances in the state of Utah. On January 29, 1988, the Order was served on Respondent who then requested a hearing to determine all issues raised by the Order. Before a hearing date was set, the Government moved for summary disposition of the case alleging that the Division of Occupational and Professional Licensing of the State of Utah (DOPL) had revoked Respondent's state license to practice dentistry on May 20, 1987, and, therefore, Respondent was not duly authorized to possess, prescribe, dispense or otherwise handle controlled substances in the State of Utah. The motion was supported by an Order from the Director of the DOPL revoking Respondent's state license to practice dentistry.

On April 4, 1988, Respondent filed a response to the Motion for Summary Disposition, asserting that his license was revoked for one year on April 27, 1987, that his attorney had filed a motion with "the board," apparently seeking Respondent reinstatement, and that within four to six weeks Respondent would be authorized to handle controlled substances in Utah. In response, the Government filed a letter from the Director of the DOPL stating that the Respondent had not contacted their office and, even if he had done so, it would be unlikely that he would become licensed in the near future. Respondent provided no documentation to the contrary. On May 9, 1988, the Administrative Law Judge granted the Government's Motion for Summary Disposition and recommended that Respondent's registration be revoked. Proceedings were then terminated and the record was certified and forwarded to the Administrator.

The Administrator has consistently held that a practitioner may not be registered if he is not authorized to handle controlled substances by the state in which he practices. 21 U.S.C. §§ 823(f) and 824(a)(3). Emerson Emory, M.D., Docket No. 85-46, 51 FR 9543 (1986); Avner Kauffman, M.D., Docket No. 85-8, 50 FR 34208 (1985).

In the instant case, the action by the Division of Licensing is conclusive, and it is clear that Respondent's license to practice dentistry has been revoked. In such a case, a Motion for Summary disposition is properly entertained and must be granted. It is settled that when no fact question is involved, an adversarial hearing is not required. U.S. v. Consolidated Mines and Smelting Co., Ltd., 455 F.2d 432, 453 (9th Cir. 1971); see NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO, Local 433, 549 F.2d 634 (9th Cir. 1977); Alfred Tennyson Smurthwaite, M.D., Docket No. 77-29, 43 FR 11873 (1978); Philip E. Kirk, M.D., Docket No. 82-36, 48 FR 32887 (1983), Aff'd sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator finds the Respondent is not licensed in the State of Utah and concurs with the recommendation of the Administrative Law Judge that Respondent's registration should be revoked and any pending applications should be denied. Therefore, pursuant to 21 U.S.C. 824(a)(3) and 28 CFR O.100(b), the Administrator hereby orders that Certificate of Registration AL2383862, previously granted to Raymond Lyman, D.M.D., is revoked. The Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied.

This Order is effective August 3, 1988.

John C. Lawn,

Administrator.

Dated: July 25, 1988.

[FR Doc. 88-17414 Filed 8-2-88; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-26]

Samuel S. Lyness, M.D.; Revocation of Registration

On January 13, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Samuel S. Lyness, M.D. (Respondent), of 958 County Line Road, Bryn Mawr, Pennsylvania, proposing to revoke DEA Certificate of Registration AL8832633 and to deny any pending applications for renewal on the ground that he was no longer authorized to handle controlled substances in the state in which he was registered.

Respondent, through counsel, requested a hearing on the issue raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young. On March 21, 1988, Government counsel filed a motion for summary disposition of this matter based upon Respondent's lack of state authorization to handle controlled substances as a result of the recent suspension of his Pennsylvania State medical license. Government counsel subsequently amended the motion to include the recovation of Respondent's Pennsylvania State medical license. Judge Young afforded Respondent's counsel two opportunities to respond to the Government's motion. No such

opposition or other response to the Government's motion for summary disposition was filed.

The Administrative Law Judge issued his opinion and recommended decision on May 20, 1988, recommending the revocation of Respondent's current DEA Certificate of Registration and the denial of any pending applications for renewal based on Respondent's lack of state authorization to handle controlled substances. No exceptions were filed in response to the Administrative Law Judge's opinion and recommended decision.

After a careful review of the entire record, the Administrator adopts the Administrative Law Judge's recommendation.

The Administrator finds that effective July 29, 1987, the Pennsylvania State Board of Medicine suspended Respondent's license to practice medicine in that state. The suspension was to remain in effect until July 28, 1992. On March 22, 1988, the Pennsylvania State Board of Medicine issued a final Adjudication and Order revoking Respondent's license to practice medicine in that state, effective April 22, 1988. Consequently, Respondent is no longer authorized to handle controlled substances in that state.

The Drug Enforcement Administration does not have the authority to maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 823(f) and 824(a)(3). The Administrator has consistently so held. See Fazal Ahmad, M.D., Docket No. 85–46, 51 FR 9543 (1986); Avner Kauffman, M.D., Docket No. 85–8, 50 FR 34208 (1985); and Agostino Carlucci, M.D., Docket No. 82–20, 49 FR 33184 (1984).

In the instant case, it is clear that Respondent is not currently authorized ot handle controlled substances in the State of Pennsylvania. Without the appropriate state authority to handle controlled substances, Respondent cannot hold a Federal controlled substance registration.

Since there is no dispute about Respondent's lack of state authority to handle controlled substances, the Administrative Law Judge properly granted the Government's motion for summary disposition. When no question of fact remains or when the facts are agreed, a plenary adversarial administrative proceeding is not required, even though the statute allows for a hearing. In such situations, the rationale is that Congress did not intend for the Agency to perform the meaningless task of conducting a hearing when no issues remain in dispute. See United States v. Consolidated Mines and Smelting Co., Ltd., 445 F.2d 432, 453 (9th Cir. 1971); N.L.R.B. v. International Asociation of Bridge, Structural and Ornamental Ironworkers, AFL–CIO, 549 F.2d 634 (9th Cir. 1977); Alfred Tennyson Smurthwaite, M.D., Docket No. 77–29, 43 FR 11873 (1977); Philip E. Kirk, M.D., Docket No. 82–36, 48 FR 32887 (1983), aff'd sub. nom. Kirk v. Mullen, 749 F.2d 297 (6gh Cir. 1984).

Therefore, based on Respondent's lack of state authority to handle controlled substances, the Administrator concludes that Respondent's DEA Certificate of Registration must be revoked. Pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration orders that DEA Certificate of Registration AL8832633, previously issued to Samuel S. Lyness, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective August 3, 1988.

John C. Lawn,

Administrator.

Dated: July 26, 1988.

[FR Doc. 88–17415 Filed 8–2–88; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co. et al.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (the licensees), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would incorporate proposed changes, identified as PCN–231, 233 and 234, as described below:

Proposed Change PCN–231 is a request to revise Technical Specification 3/4.1.3.6, "Regulating CEA Insertion Limits." The proposed change would revise Figure 3.1–2, relaxing the CEA insertion limits as low power levels to increase operating flexibility and to reduce the volume of radioactive waste water.

Proposed Change PCN–233 is a request to revise Technical Specification 3/4.10.2, "Group Height, Insertion and Power Distribution Limits," and Tables 2.2–1 and 3.3–1. The proposed change would modify the existing Technical Specification to allow use of the correct Special Test Exception during the measurement of various CEA reactivity worths at low power levels. Tables 2.2–1 and 3.3–1 would incorporate this Special Test Exception in Footnotes (5) and (C), respectively. Additionally, the proposed change would specify, in Table 3.3–1, an exemption from the requirements of Specification 3.0.4 if the CEACs are inoperable. PCN–233 would also correct a reference error in Surveillance Requirement 4.10.2.2.

Proposed Change PCN–234 is a request to revise Technical Specification 3/4.5.1, "Safety Injection Tanks." The proposed change would increase the upper limit on SIT cover gas pressure from 625 to 640 psig and change the designated units from psig to psia.

The Need for the Proposed Action

The proposed changes would provide operational flexibility, clarify and correct the Technical Specifications, and reduce the volume of radioactive waste water.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical Specifications and has concluded that the proposed changes provide reasonable assurance that the facility can be operated safely. The proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Changing the insertion limits will decrease the volume of radioactive waste water and changing the SIT cover gas pressure will result in core reflood after a large break LOCA commencing sooner. Accordingly, the Commission concludes that this proposed action would result in no significant adverse radiological environmental impact.

With regard to potential nonradiological impacts, the proposed

change to the Technical Specifications involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 31, 1988 (53 FR 10452). No request for hearing or petition for leave to intervene was filed following these notices.

Alternative to the Proposed Action

Since the Commission concluded that there is no significant adverse environmental effect that would result from the proposed action, alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. Denial of the request would not reduce environmental impacts of plant operation and in fact would prevent a reduction in the volume of radioactive waste water generated at the facility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement Related to the Operation of the San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated December 14, 1987 and the supplementary information provided by letters dated April 14 and May 6, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 29the day of July, 1988.

For the Nuclear Regulatory Commission.

George W. Kinghton,

Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reeactor Regulation.

[FR Doc. 88-17462 Filed 8-2-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 366]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia and City of Dalton, GA; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-57 and NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 located in Appling County, Georgia.

The Technical Specifications (TS) for Units 1 and 2 require that the main steam isolation valves stroke closed in not less than 3 seconds and not more than 5 seconds. The licensee proposes to modify this stroke time interval to require valve closure in not less than 2 seconds and not more than 8 seconds. Other changes to the TS also would be made to make the Unit 2 TS consistent with the Standard Technical Specifications (NUREG-0123, Revision 3) and to improve consistency between the Unit 1 and the Unit 2 TS.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 2, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding: (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention:

Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews, Director, Project Directorate II–3: (petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Bruce W. Churchill, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding office or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 13, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Dated at Rockville, Maryland, this 27th day of July 1988.

For the Nuclear Regulatory Commission.

Lawrence P. Crocker,

Project Manager, Project Directorate II–3, Division of Reactor Projects I/II.

[FR Doc. 88–17461 Filed 8–2–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25950; File No. SR–Amex–87–20]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction

On July 16, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange"), purusant to section 19(b) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] submitted to the Securities and Exchange Commission ("Commission") a proposed rule change to increase the number of Institutional Index ("XII") option contracts eligible for execution through Amex's AUTO-EX system from 10 to 100.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24793 (August 12, 1987), 52 FR 31105. No comments were received on the proposed rule change.

II. Description of Proposal

The Exchange's AUTO-EX system authomatically executes small public customer orders in a select group of option classes.[3] Public customer orders executed through AUTO-EX receive a guaranteed execution at the market quote, with either the specialist in the option or a registered options trader taking the other side of the trade. AUTO-EX reports such executions back to the entering member firm as well as to the last sale tape, thus "locking-in" both sides to the trade and minimizing operational burdens for the parties to the trade and for the Exchange. AUTO-EX currently is operational in the Amex's Major Market ("XMI") index option, 40 equity options, and several competitively traded equity options for orders of 10 contracts or less.

Because of the relatively large number of contracts proposed to be eligible for automatic execution in XII, the Exchange's proposal would limit contra side participation to the XII specialist, rather than allowing Amex market makers to participate in these trades on a rotational basis with the specialist. In order not to disadvantage brokers and traders in the crowd, however, the proposal provides that the specialist must fill any order, whether in the crowd or on the limit order book, that was bidding or offering at the executed price of an AUTO-EX trade. For example, if the specialist is notified of a 75 contract AUTO-EX execution against a quoted bid of 3, he must execute any bids of 3 in the crowd or on the book that are entitled to executions under Amex rules of priority and precedence.[4] To ensure compliance with this aspect of the proposal, the overhead display screens in the XII trading area will be modified to indicate when the last sale is an AUTO-EX execution.

III. Discussion

The Amex's proposal to increase to 100 the number of contracts eligible for execution through AUTO-EX IN XII is intended to attract increased institutional use to the product and to allow the Exchange to remain competitive with other markets trading similar products. In the past year, the Exchange has undertaken other measures designed to foster market depth and liquidity in XII. These measures include the adoption of a Limited Trading Permits Plan whereby the Exchange added 36 market makers to its non-equity option trading areas through the issuance of Limited Trading Permits ("LTPs").[5] In addition, the Exchange developed a real time option pricing capability that directly interfaces with the Amex Market Data System and automatically generates quotation updates in XII.

The Commission believes that the proposed rule change and the developments cited above are a positive step toward increasing the Exchange's floor trading capability in non-equity options products. The Commission continuously has supported the implementation and expansion of exchange automatic executions systems such as AUTO-EX because of these systems' unique ability to provide customers orders with quaranteed executions at the market quote. These systems also provide many operational benefits to member firms, including nearly instantaneous price reports.

While the benefits of the proposed rule change are significant, nonetheless the Commission has been concerned with the proposal's provision that only the XII specialist participate in AUTO-EX trades. The Commission's concern arose from an Exchange requirement, adopted in conjunction with the issuance of LTPs, that one-third of an

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1987).

[3] AUTO-EX's use was initially approved by the Commission in Securities Exchange Act Release No. 22610 (November 6, 1985), 50 FR 47480

[4] *See, e.g.*, Amex Rule 950.

[5] *See* Securities Exchange Act Release No. 24303 (April 6, 1987), 52 FR 11789

LTP holder's total trading activity [6] be in XII. The Commission was concerned that, if LTP holders could not participate in AUTO-EX trades, they might engage in riskless or pre-arranged proprietary trades in order to meet the Plan's one-third trading requirement. In practice, however, this concern will be addressed by the obligation imposed by the proposed rule on the XII specialist to trade with any orders on the floor at the same price as an AUTO-EX execution. In this regard, the Exchange has committed itself to monitor the trading activity of LTP holders to ensure that their participation in public customer order flow does not decline significantly from current levels [7] as a result of the implementation of the proposed rule change.[8] The Amex has in place procedures to monitor options trading generally and ensure that LTP holders' trading in XII is done for the purpose of contributing to the maintenance of a fair and orderly market, and not solely to fulfill the one-third requirement.[9]

IV. Conclusion

For the above stated reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [10] and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, purssuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

Dated: July 28, 1988.

[FR Doc. 88-17457 Filed 8-2-88; 8:45 am]

BILLING CODE 8010-01-M

[6] Total trading activity is calculated on a quarterly basis based on the number of contracts traded.

[7] *See, e.g.*, statistics contained in letter to David Underhill, Division of Market Regulation, SEC, from Claire P. McGrath, Staff Attorney, Amex, dated July 18, 1988, indicating that approximately 44% of the trading activity of LTP holders in XII between October 1, 1987 and May 31, 1988 was conducted with public customers.

[8] Telephone conversation between Howard Baker, Vice President, Amex, and Holly H. Smith, Special Counsel, Division of Market Regulation, SEC, July 26, 1988.

[9] *See* letter to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, from James Duffy, Legal and Regulatory Policy Division, Amex, dated December 23, 1986 (filed in connection with SR-Amex-86-24).

[10] 15 U.S.C. 78f (1982)

[11] 15 U.S.C. 78s(b)(2) (1982)

[12] 17 CFR 200.30-3(a)(12) (1987).

[Release No. 34-25948; File No. SR-DTC-88-13]

Self-Regulatory Organizations; Depository Trust Co.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on July 12, 1988, the Depository Trust Company ("DTC") filed the proposed rule change described below. The proposal revises DTC's operational arrangements to incorporate issues eligible for DTC's Same-Day Funds Settlement ("SDDFS") Service and to clarify the prerequisites for such issues to become eligible for that service. The Commission is publishing this notice to solicit comments on the rule change.

DTC's proposed rule change is a memorandum, included in the file as *Exhibit A*, that sets out DTC's operational arrangements necessary for an issue to become eligible for DTC services. The memorandum has been updated to include issues eligible for DTC's SDFS Service, which began operation subsequent to the pulication of the memorandum in June 1987. The arrangements in the memorandum otherwise remain virtually unchanged. The memorandum's purpose is to inform participants, underwriters, agents, trustees, bond counsel, and others of what is necessary to make new issues eligible for DTC services. DTC expects the operational arrangements to be considered when participants and others structure, distribute, and administer new issues.)

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act in that it promotes maximization of the number of securities issues that can be made depository-eligible while maintaining orderly processing and permitting timely dividend, interest, and principal payments.

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street NW, Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-88-13.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 27, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-17458 Filed 8-2-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16503; 812-6508]

Merrill Lynch California Municipal Bond Trust et al.; Application for Exemption

July 28, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicants: Merrill Lynch California Municipal Bond Trust, Merrill Lynch Multi-State Municipal Series Trust, Merrill Lynch Retirement Benefit Investment Program, Inc., Merrill Lynch Retirement/Income Fund, Inc., Merrill Lynch Basic Value Fund, Inc., Merrill Lynch Capital Fund, Inc., Merrill Lynch Corporate Bond Fund, Inc., Merrill Lynch EuroFund, Merrill Lynch Fund for Tomorrow, Inc., Merrill Lynch Global Convertible Fund, Inc., Merrill Lynch Government Fund Inc., Merrill Lynch Institutional Fund, Inc., Merrill Lynch International Holdings, Inc., Merrill Lynch Municipal Bond Fund, Inc., Merrill Lynch Municipal Series Trust, Merrill Lynch Natural Resources Trust, Merrill Lynch Pacific Fund, Inc., Merrill Lynch Phoenix Fund, Inc., Merrill Lynch Ready Assets Trust, Merrill Lynch Retirement Equity Fund, Merrill Lynch Retirement Global Bond Fund, Merrill Lynch Retirement Series Trust, Merrill Lynch Special Value Fund, Inc., Merrill Lynch Strategic Dividend Fund, Merrill Lynch U.S.A. Government Reserves, Sci/Tech Holdings, Inc., and each open-end management investment company to be established, advised or managed in the future by Merrill Lynch Asset Management, Inc. or Fund Asset

Management, Inc. or distributed by Merrill Lynch Funds Distributor, Inc. (all of the above being referred to collectively, in whole or in part, as the context requires, as the "Funds"), Merrill Lynch Asset Management, Inc. ("MLAM") and Fund Asset Management, Inc. ("FAMI") (together, the "Advisers"), and Merrill Lynch Funds Distributor, Inc. ("MLFD") (the "Distributor") (all of the foregoing being referred to as the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) of the 1940 Act from the provisions of section 18(f), 18(g), 18(i), 2(a)(32), 2(a)(35), 22(c), 22(d) of the 1940 Act and Rule 22c–1 thereunder and approval requested under section 11(a) of the 1940 Act.

Summary of Application: Applicants are requesting an order of the Commission (i) to permit the Funds to sell two classes of securities for the purpose of establishing a dual distribution system, (ii) to permit the Funds to assess a contingent deferred sales load ("CDSL") on certain redemptions of a class of their securities, and to waive the CDSL in certain cases, and (iii) to permit certain offers of exchange between shares of the Funds. This notice only summarizes a detailed and lengthy application.

Filing Date: The application was filed on October 21, 1986, and an Amended and Restated Application was filed on February 24, March 17, and June 19, 1987 and June 29, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 22, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Box 9011, Princeton, New Jersey 08543–9011 (Merrill Lynch Government Fund Inc. and Merrill Lynch Institutional Fund Inc., 125 High Street, Boston, Massachusetts 02110).

FOR FURTHER INFORMATION CONTACT: Staff Attorney Fran Pollack-Matz (202) 272–3024 or Branch Chief Karen L. Skidmore (202) 272–3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations and Legal Conclusions

1. Each of the Funds is a diversified, open-end management investment company registered under the 1940 Act. Each Fund has entered into or intends to enter into an investment advisory or management agreement with one of the Advisers, and a distribution agreement with the Distributor under which the Distributor acts as principal underwriter for the Funds.

2. Certain of the Funds are currently offered to investors at net asset value plus a front-end sales load ("Front-End Load Funds"). Other Funds ("CDSL Funds") are offered to the public at their net asset value without a front-end load. Instead, an investor's proceeds from a redemption of the CDSL Funds' shares made within a specified period of time after purchase ("CDSL Period") are subject to a CDSL imposed by the Distributor. In addition, the CDSL Funds pay the Distributor a distribution fee under a distribution plan adopted by the Funds pursuant to Rule 12b–1 under the 1940 Act ("Rule 12b–1 Plan") based on the average daily net assets of a Fund, typically at an annual rate in the 0.5% to 1% range. The Applicant Funds also include money market funds which are generally offered without a sales load (the "Money Market Funds"). Two of the Money Market Funds have Rule 12b–1 Plans, though different in level of charges from the CDSL Funds' Rule 12b–1 Plans. Another two of the Money Market Funds have adopted "defensive" Rule 12b–1 Plans, *i.e.*, the Adviser is permitted under these plans to use a portion of its management and advisory fees to pay for the distribution of these Money Market Fund shares.

Representations Relating to the Dual Distribution System

3. Applicants propose the establishment of a dual distribution system (the "Dual Distribution System") which would enable each of the Funds to provide investors with the option of purchasing shares either with a conventional front-end sales load (the "Front-End Load Option") such as is currently offered by the Front-End Load Funds are subject to a CDSL and a Rule 12b–1 Plan charge (the "Deferred Load Option") as is currently offered by the CDSL Funds.

4. Each Fund would create two classes of shares with "Class A" shares being sold under the Front-End Load Option and "Class B" shares being sold under the Deferred Load Option. The two classes would each represent interests in the same portfolio of securities of a fund, and be identical in all respects, except that (i) Class B shares would bear the expenses of the deferred sales arrangements, *i.e.*, the CDSL and the Rule 12b–1 Plan, any incremental transfer agency costs resulting from such sales arrangements, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended ordered ("Differential Expenses"), (ii) Class B shares would have exclusive voting rights with respect to the Rule 12b–1 Plan, and (iii) the two classes would have different exchange privileges. (Sometimes (i), (ii), and (iii) are collectively referred to as the "Class Dissimilarities.")

5. Under the Front-End Load Option relating to Class A shares, the sales loads would be subject to reductions for larger purchases and under a right of accumulation and a letter of intent. Certain other reductions would also apply, as set forth in the registration statement of each of the Funds.

6. The two classes of shares would represent interests in the same portfolio of securities and would have identical voting, dividend, liquidation and other rights and the same terms and conditions, except for the specifc Class Dissimilarities, noted in #4. The net asset value of each share would be computed on a pro rata basis for each share regardless of class, and all expenses incurred by a Fund would be borne on a pro rata basis except for the Differential Expenses which would be borne solely by Class B. The Differential Expenses would cause the net investment income attributed to, and the dividends payable on, Class B shares to be lower than that for Class A shares since the expenses are deducted from gross investment income for each class. And because undistributed net income is a component of net asset value, the net asset value of the Class B shares would be lower than the net asset value of the Class A shares. However, any dividends paid by a Fund with respect to Class A and Class B shares would be calculated in the same manner, at the same time, on the same day, and would be in the same amount, except for the Differential Expenses.

7. In substance, the two classes of a dual-priced fund would be treated as if they were separate funds that share a common securities portfolio. The effect that the allocations of daily income and expenses, changes in realized gains and losses, and unrealized appreciation/depreciation would have on the two classes would depend on the type of fund involved. The application contains a more detailed discussion of the Applicants' proposed methodology for net asset value calculations and expense allocations.

8. Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") sales personnel would be paid under different compensation systems for selling Class A or Class B shares, similar to sales of the Front-End Load and CDSL Funds, respectively. Because financial consultant's compensation would vary from case to case depending on breakpoints, length of trailer, and the like, it is not possible to generalize as to which class would provide the financial consultant the highest level of compensation.

9. The prospectuses of the Funds would (i) describe the services rendered and compensation paid under the Rule 12b–1 distribution plans with respect to such shares and the fees payable by each of the Funds for such services; and (ii) disclose all material information concerning the Class A and Class B shares in a manner that would enable an investor to make a comparative analysis of the two classes of shares and facilitiate the making of an investment decision as to which class would be more advantageous to the investor.

Applicants' Legal Conclusion Relating to the Dual Distribution System

10. The proposed Dual Distribution System does not create the potential for the abuses relating to complex capital structures and mutuality of risk which section 18 was designed to correct, since all shares would participate pro rata in the Fund's income and the Fund's expenses, except for the Differential Expenses payable by Class B shares, the proposed arrangement would not increase the speculative character of the shares of the Funds or disturb the mutuality of risk among all shareholders. Further, both classes of shares would be redeemable at all times and no one class of shares would have any preference or priority over the other Fund class in the usual sense, that is, no class would have distribution or liquidation preferences with respect to particular assets and no class would be protected by any reserve or other account.

11. The interests of the two classes as to the payment of management and advisory fees would be the same, and not conflict because these fees would be used solely to compensate the Funds' investment advisers for providing services common to all investors. Further, the directors/trustees must analyze the reasonableness of the advisory fee and the distribution fee under the standards defined by section 36(b) of the 1940 Act. Thus, the interests of each class of shareholders would be adequately protected.

12. With respect to potential conflicts of interest between the classes, relating to the allocation of certain Fund expenses, there is no greater potential for the shifting of expenses between the classes of a dual distribution Fund than there is to do likewise between CDSL Funds and Front-End Loan Funds not operating under such Rule 12b–1 Plans within a fund complex. The proposed allocation of expenses and voting rights relating to the Rule 12b–1 Plans is equitable and would not discriminate against any group of shareholders. Investors purchasing Class B shares would bear the deferred charges, but would also enjoy exclusive shareholder voting rights with respect to matter affecting such Rule 12b–1 Plans.

13. Under the proposed Dual Distribution System, investors would be able to choose the method of purchasing shares that is most beneficial given the amount of their purchase, the length of time the investor expects to hold the shares and other relevant circumstances. Owners of both classes may be relieved under the Dual Distribution System of a portion of the fixed costs normally associated with open-end investment companies, since such costs would, potentially, be spread over a greater number of shares. In addition, under contracts with Merrill Lynch companies, the advisory and administrative fees charged some Funds may decrease as the level of assets under management increases.

Representations Relating to Assessment of a CDSL

14. The Applicants desire to assess a CDSL on certain redemptions of Class B shares of the Funds, and to permit the Funds to waive the CDSL with respect to certain types of redemptions. An investor's proceeds from a redemption of Class B shares made within a specified period (typically four or five years, but not to exceed six years) of their purchase would be subject to a CDSL imposed by the Distributor or MLPF&S, a registered broker-dealer under the Security Exchange Act of 1934, which has entered into agreements with the Distributor. The CDSL typically ranges from 4% to 6% (but can be higher or lower, not to exceed 8.5%) on shares redeemed in the first year of purchase and is reduced typically at a rate of 1% per annum over the applicable CDSL period, so that redemptions of shares held after that period would not be subject to any CDSL.

15. The Deferred Load Option is designed to permit the investor to purchase Class B shares without the assessment of a front-end sales load and at the same time permit the Distributor to pay the account executives or financial consultants of securities dealers selling shares of a Fund, primarily MLPF&S, a commission on the sale of the Class B shares. Proceeds from the distribution fee and the CDSL would be used in whole or in part to defray the expenses of the Distributor and MLPF&S related to providing distribution-related services to the investor choosing the Deferred Load Option.

16. The CDSL would not be imposed on redemptions of shares which were purchased beyond the applicable CDSL Period prior to the redemptions or on Class B shares derived from reinvestment of distributions. Furthermore, no CDSL would be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSL Period. In determining whether a CDSL is applicable, a redemption would be made first of shares derived from reinvestment of distributions, second of shares purchased prior to the CDSL Period, and third of shares purchased during the CDSL Period. The amount of the CDSL to be imposed would be set forth in the Funds' prospectuses.

17. In an exchange between Funds which are not Money Market Funds, the Funds would "tack" the period for which the original Class B shares of a Fund were held onto the holding period of the Class B shares acquired in the exchange for purposes of determining what, if any, CDSL is applicable in the event that such acquired shares are redeemed following the exchange. An investor would be subject to the CDSL of the Fund with the longest CDSL Period or highest CDSL schedule which may have been owed by him, whichever results in the greatest CDSL payment. It is expected that the CDSL schedule and CDSL Period of the Funds would vary depending in part on the front-end sales loads on the Class A shares of a Fund and the compensation paid to financial consultants for selling shares of a Fund.

18. The Funds are requesting the ability to waive the CDSL: (a) On redemptions following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code, of a shareholder, (b) in connection with certain distributions from an Individual Retirement Account or other qualified retirement plan, (c) in whole or in part, in connection with shares sold to certain individuals or groups pursuant to special arrangements, as disclosed in a Fund's registration statement, exactly the same as those under which the front-end sales load on Class A shares could be reduced or waived pursuant to Rule 22d–1 under the 1940 Act at the time of the issuance of the order requested by this application, and (d) in connection with the exercise of certain exchange privileges among the Class B shares of the Funds and the Money Market Funds. If the directors/trustees of a Fund determine to no longer waive or reduce such CDSL, the disclosure in a Fund's prospectus would be revised. Any Class B shares purchased prior to the termination of such waiver or reduction would be able to have the CDSL waived or reduced as provided in a Fund's prospectus at the time of the purchase of such shares.

Applicants' Legal Conclusions Relating to the CDSL

19. Applicants believe its request for exemptive relief is consistent with the standards of section 6(c). The imposition of the CDSL on the Class B shares of the Funds is fair and in the best interests of their shareholders. The proposed Dual Distribution System permits Class B shareholders to have the advantage of greater investment dollars working for them from the time of their purchase than if a sales load were imposed at the time of purchase, as in the case with the Class A shares. Furthermore, the CDSL is fair to Class B shareholders because it applies only to amounts representing increases in the value of an investor's account through capital appreciation, or to amounts representing reinvestment of distributions. In their review of the Rule 12b–1 distribution plans, the directors/trustees of the Funds intend to consider the use by the distributor of revenues raised by the CDSL.

20. Applicants further believe that an order permitting the waivers of the CDSL described above would be consistent with the standards of section 6(c). Waiver of the CDSL in the extraordinary circumstances of death or total disability or in the case of certain retirement distributions is justified on basic considerations of fairness. The waiver of the CDSL, in whole or in part, in connection with shares sold under the same special arrangements as those applicable to Class A shares pursuant to Rule 22d–1 is justified since, as in the case of the front-end sales load, the Funds generally recognize economies of scale and a reduction of sales related expenses with these programs. Waiver of the CDSL in the case of the excercise of certain exchange privileges is justified by the fact that the investor would still be invested in a mutual fund sponsored by the Advisers and, except if the shares are in a Money Market Fund, would be paying a Rule 12b–1 distribution fee on Class B shares, and would have to pay any applicable CDSL for redemptions made out of the Funds (including the Money Market Funds). Moreover, this waiver would not adversely affect other Class B shareholders of a Fund. Waiver of the charge would not result in the loss of any revenue to a Fund since proceeds from the CDSL would be paid to the Distributor.

Representations Relating to the Proposed Exchange Privilege

21. The Applicants desire to permit the proposed exchange privilege among the Funds, including the Money Market Funds. The Front-End Load Funds and the Money Market Funds currently have an exchange program and it is contemplated that Class A shares of a Fund would similarly be exchangeable for Class A shares of the other Funds and Money Market Fund shares. Applicants propose to allow Class B shares of a Fund to be exchangeable for Class B shares of the other Funds and Money Market Fund shares. In addition, Money Market Fund shares would be exchangeable for either Class A or Class B shares of the Funds; however, if Money Market Fund shares were acquired under an exchange privilege, they would only be exchangeable for the class of shares involved in the original exhange into the Money Market Fund shares. In connection with the exchange privilege, a shareholder would be required to hold Class B shares of a Fund or shares of a Money Market Fund for a minimum period of time before they can be exchanged for other shares. This minimum time period would be uniformly applied to all offerees of the class specified.

Applicants' Legal Conclusions Relating to the Exchange Privilege

22. Applicants argue that the exchange privilege should be permitted under section 11(a) on the basis that it is in the best interests of the shareholders of the Funds. The purpose of the exchange privilege is to permit Class B shareholders of the funds to exchange their shares with one another and with the Money Market Funds when their investment objectives change or when market conditions favor one type of investment over another. The proposed exchange privilege provides shareholders of the Funds with desirable flexibility for their financial planning. The directors/trustees of each of the Funds can elect that the Fund not participate in the exchange privilege program at any time. The proposed exchange privilege is fair and equitable to the shareholders of all of the Funds, while preventing a shareholder from acquiring Class B shares of a Fund with a relatively long applicable CDSL Period or relatively high CDSL schedule by simply purchasing Class B shares of another Fund with a shorter CDSL period or lower CDSL schedule or no sales charge (such as the Money Market Funds) and then exchanging such shares for those of the former Fund on the basis of relative net asset value per share.

Applicants' Conditions

An order granting the requested exemptions would be subject to the following conditions set forth in the application:

Conditions Relating to the Dual Distribution System

1. The Class A and Class B shares would represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences between Class A and Class B shares of the same Fund would relate solely to: (a) Priorities with respect to the payment of dividends and such priorities would reflect only the impact of the Rule 12b–1 plan distribution fee payments made by the Class B shares of a Fund, any incremental transfer agency costs paid by the Class B shares of a Fund resulting from the Deferred Load Option sales arrangements and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) voting rights on matters which pertain to Rule 12b–1 Plans, (c) the different exchange privileges of the Class A and Class B shares as descibed in the prospectuses (and as more fully dscribed in the statements of additional information) of the Funds and consistent with any order granted pursuant to this application, and (d) the designation of each class of shares of a Fund.

2. The directors/trustees, of each of the Funds, including a majority of the independent directors/trustees would approve the Dual Distribution System

and at least a majority of the existing shareholders of each of the Funds would approve the Dual Distribution by an affirmative vote prior to implementation of the Dual Distribution System by a particular Fund. The minutes of the meetings of the directors/trustees of each of the Funds regarding the deliberations of the directors/trustees with respect to the approvals necessary to implement the Dual Distribution System would reflect in detail the reasons for determining that the proposed Dual Distribution System is in the best interests of both the Funds and their respective shareholders and such minutes would be available for inspection by the Commission staff.

3. On an ongoing basis, the directors/trustees of the Funds, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, would monitor each Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors/trustees, including a majority of the independent directors/trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. MLAM, FAMI and MLFD would be responsible for reporting any potential or existing conflicts to the directors/trustees. If a conflict arises, the Advisers and the Distributor at their own cost would remedy such conflict up to and including establishing a new registered management investment company.

4. The Rule 12b-1 Plans relating to Class B shares of each Fund have been or would be approved and reviewed by the Funds' directors/trustees in accordance with the requirements and procedures set forth in Rule 12b-1, both currently and as that rule may be amended in the future. Any Class B Rule 12b-1 Plans adopted in connection with or subsequent to the implementation of the Dual Distribution System (i.e., by Front-End Load Funds or newly organized funds) would be submitted to the Class B shareholders for approval at the next meeting of shareholders after the commencement of operation of such Plan (such condition not being applicable to the existing CDSL Funds with existing Rule 12b-1 Plans which have already been submitted to shareholders for approval).

5. The directors/trustees of the Funds would receive quarterly and annual Statements complying with paragraph (b)(3)(ii) of Rule 12b-1, as it may be amended from time to time. In the Statements, only distribution expenditures properly attributable to the sale of the Class B shares would be used to justify the Class B Rule 12b-1 fee. Expenditures not related to the sale of the Class B shares would not be presented to the directors/trustees to justify Class B Rule 12b-1 fees. The Statements, including the allocations upon which they are based, would be subject to the review and approval of the independent directors/trustees in the exercise of their fiduciary duties under Rule 12b-1.

6. Dividends paid by a Fund with respect to its Class A and Class B shares, to the extent any dividends are paid, would be calculated in the same manner at the same time on the same day and would be in the same amount, except that distribution fee payments made by a Fund under its Rule 12b-1 Plan and any incremental transfer agency costs relating to Class B shares would be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividend/distributions of the two classes and the proper allocation of expenses between the two classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an on-going basis, the Expert, or an appropriate substitute Expert, would monitor the manner in which the calculations and allocations are being made and, based upon such review, would render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert would be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the 1940 Act and the work papers of the Expert with respect to such reports, following request by the Funds which the Funds agree to provide, would be available for inspection by the Commission staff. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports would be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividend/distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition (7) above and would be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis at least annually in the ongoing reports referred to in that condition. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

9. The prospectuses of the Funds would include a statement to the effect that a financial consultant may receive different compensation for selling Class A or Class B shares.

10. MLPF&S would adopt compliance standards, substantially in the form attached as Exhibit E to the application as to when Class A and Class B shares may appropriately be sold to particular investors.

11. All purchases of shares of the Funds by the directors/trustees made after the issuance of a secord class of shares has been authorized would be equally divided between the two classes. Over time, the actual holdings of the two classes of these newly purchased shares would differ to a minor degree if a director/trustee elects to have dividends reinvested.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors/trustees of the Funds with respect to the Dual Distribution System would be set forth in guidelines which would be furnished to the directors/trustees and made a part of the MLAM Directors Manual setting forth the duties and responsibilities of the directors/trustees of the investment companies advised by MLAM and FAMI.

13. Each of the Funds would clearly disclose the difference in the respective yields of the Class A and Class B shares of a Fund in its prospectus, shareholder reports and any advertising materials, including newspaper advertisements. For instance, the supplementary financial information, including the per share table in each Fund's prospectus and the balance sheet in each Fund's prospectus or statement of additional information, would be separately presented for the Class A and Class B shares. Also, the Funds' prospectuses and statements of additional information would disclose the different exchange privilege applicable to the different classes of shares. Similarly, the

information provided by Applicants to any newspaper of similar listing of the Funds' net asset values and public offering prices would separately present the Class A and Class B shares.

14. The Applicants acknowledge that the grant of the exemptive order requested by the Application would not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to Rule 12b–1 Plans in reliance on the exemptive order.

Conditions Relating to the CDSL and Exchange Privilege

Any order granted under section 6(c) exempting Applicants from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and Rule 22c–1 thereunder and under section 11(a) of the 1940 is conditional on the representations summarized above and more fully described in the application. For example, these representations state that:

a. The Applicants do not anticipate that there would be any administrative fee applicable to any exchanges. However, to the extent any administrative or similar fee may be applicable, such fees would be disclosed in the Funds' prospectuses and in any sales or advertising literature relating to the exchange privilege. Furthermore, any such administrative fee or scheduled variation would be uniformly applied to all offerees of the class specified. Any administrative or similar fee applicable to any exchanges would be nominal (i.e., $5.00 or less) or Applicants would obtain an amendment to any order granted in connection with the application permitting a higher fee.

b. The Applicants would disclose in the Funds' prospectuses and in any sales or advertising literature mentioning the exchange privilege the fact that the Applicants have the right to modify or terminate the exchange privilege.

c. The Applicants would not terminate or restrict the exchange privilege of a particular Fund unless the shareholders of a Fund are given written notice of such termination or modification at least 60 days prior to such termination or modification. The Applicants would not restrict the terms of the exchange privilege described in the application and permitted by any order granted pursuant to section 11(a) of the 1940 Act prior to obtaining an amendment to such order.

d. The Applicants would comply with proposed Rule 11a–3 under the 1940 Act, or any similar rule relating to exchange privileges, in the form in which it is adopted, if and when it is adopted.

e. If the Funds waive or reduce the CDSL, such Waiver or reduction would be uniformly applied to all offerees in the class specified.

f. In waiving or reducing a CDSL, the Funds would comply with the requirements of Rule 22d–1 under the 1940 Act.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–17460 Filed 8–2–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24685]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Mississippi Power and Light Co. and Western Massachusetts Electric Co.

July 28, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 22, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified on any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power & Light Company, (70–6672)

Mississippi Power & Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi, 39215–1640, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(d) of the Act and Rules 44 and 50(a)(5) thereunder.

In accordance with orders in this matter dated July 12, 1982 (HCAR No. 22574) and November 24, 1982 (HCAR No. 22735), MP&L caused to be issued a total of $30 million of adjustable rate Independence County, Arkansas Pollution Control Revenue Bonds, ("Bonds") in five series. The Bonds contain an optional redemption provision, an optional tender provision, and a rate adjustment mechanism that allows MP&L on a certain date each three years ("Fixed Rate Date") to adjust the interest rate for the next three years, or to fix the rate permanently until maturity.

On July 1, 1988, $10 million principal amount of the Bonds, the 1982 Series A Bonds, reached their Fixed Rate Date. By order dated May 13, 1988 (HCAR No. 24643), in connection with MP&L's possible fixing of a permanent interest rate until maturity for the 1982 Series A Bonds, the Commission authorized MP&L to waive its right of optional redemption with respect to that series for up to thirteen years from July 1, 1988. MP&L has since decided to remarket the tendered 1982 Series A Bonds, on a three-year interest period basis rather than a long-term fixed-rate basis, thereby making the May 13, 1988 order of no further force and effect. The tendered Series A Bonds were remarketed on July 1, 1988 with the understanding that MP&L would use its best efforts to obtain the Commission's approval of its waiver of its optional redemption rights.

MP&L proposes to waive its right to redeem the 1982 Series A Bonds during the three-year period from July 1, 1988 through June 30, 1991. MP&L also seeks authorization to waive its optional right to redeem the 1982 Series A Bonds during any subsequent three-year interest period if it determines to so extend the 1982 Series A Bonds.

Western Massachusetts Electric Company (70–7542)

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application pursuant to section 6(b) of the Act and Rule 50 thereunder.

WMECO proposes to issue and sell up to $75 million principal amount of its first mortgage bonds ("Bonds"), in one or more series, from time to time through December 31, 1989. Each series of the

Bonds would have a maturity of five to thirty years. The interest rate and the price, exclusive of accrued interest will be determined by the competitive bidding standards of Rule 50 of the Act, as modified, (HCAR No. 22623, September 2, 1982).

WMECO may amend the application to seek an exception from the competitive bidding requirements of Rule 50 so that it may offer the Bonds through a negotiated public offering or through a private placement. WMECO may also amend the application to seek approval of additional credit enhancement for the Bonds through an insurance policy or surety bond.

For the Commission, by the Divison of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-17459 Filed 8-2-88; 8:45 am]

BILLING CODE 8010-01

DEPARTMENT OF STATE

[Public Notice 1073]

Certification on Southern African Development and Mozambique

Pursuant to Title II of The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, I hereby certify that it is in the national interest of the United States to make available for activities in Mozambique funds from the $50,000,000 appropriated to assist sector projects supported by the Southern African Development Coordination Conference (SADCC) to enhance the economic development of member states forming that regional institution.

This certification shall be reported to the Congress immediately.

This certification shall be published in the **Federal Register.**

Date: July 21, 1988.

John C. Whitehead,

Acting Secretary.

[FR Doc. 88-17452 Filed 8-2-88; 8:45 am]

BILLING CODE 4710-08-M

[Public Notice 1072]

Determination Under SDAA Section 1253; Status of Displaced Tibetans

Pursuant to the authority vested in me by section 1253 of the State Department Authorization Act of 1988, and the Department of State Delegation of Authority No. 145, I hereby determine that the needs of displaced Tibetans are not similar to those of displaced persons and refugees in other parts of the world.

This determination shall be reported to the Congress as required by law.

This determination shall be published in the **Federal Register.**

Date: February 23, 1988.

John C. Whitehead,

Acting Secretary of State.

[FR Doc. 88-17453 Filed 8-2-88; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on July 28, 1988

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on July 28, 1988, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street SW, Washington, DC 20590, telephone, (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, is adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register,** listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on July 28, 1988.

DOT No: 3092.
OMB No: 2132-0528.
Administration: Urban Mass Transportation Administration.
Title: Rail Transit Safety Information Reporting and Analysis System (SIRAS).
Need for Information: The information is needed to analyze and determine levels of safety, to identify priorities for safety technical assistance and to assess the effectiveness of countermeasures.
Proposed Use of Information: SIRAS data is principally used by management officials that operate Rapid Rail Transit Systems in addressing safety hazards that cause accidents and injuries to the riding public.
Frequency: Monthly.
Burden Estimate: 867 hours.
Respondents: Rapid Rail Transit Systems (RRT).
Form(s): F6600.1, F6600.2, F6600.3.

DOT No: 3095.
OMB No: 2120-0008.
Administration: Federal Aviation Administration.
Title: Certification and Operations: Air Carriers and Commercial Operators of Large Aircraft—FAR 121.
Need for Information: 14 CFR 121 prescribes the requirements governing air carrier operations. The information is needed to show compliance.
Proposed Use of Information: The information is used to determine operators compliance and applicant eligibility.
Frequency: On Occasion.
Burden Estimate: 3,159,234.
Respondents: Businesses and small businesses.
Form(s): FAA Forms 8400-6 and 8070-1.

DOT No: 3096.

OMB No: New.
Administration: Federal Aviation Administration.
Title: Survey to Assess FAA's Effectiveness.
Need for Information: The FAA proposes to conduct an independent telephone survey to determine how its users view the quality of FAA's peformance.
Proposed Use of Information: The FAA will use the results of the survey as a management tool so that specific improvements can be targeted.
Frequency: One time survey.
Burden Estimate: 626 hours.
Respondents: Individuals (users of FAA services).
Form(s): N/A.

DOT No: 3097.
OMB No: 2125–0034.
Administration: Federal Highway Administration.
Title: Certification of Enforcement of Vehicle Size and Weight Laws.
Need for Information: For each State to annually certify that it is enforcing all size and weight law regulations.
Proposed Use of Information: For FHWA to evaluate the effectiveness of a State's vehicle size and weight law program.
Frequency: Annually.
Burden Estimate: 4,160.
Respondents: State highway agencies.
Form(s):

DOT No.: 3098.
OMB No.: 2120–0020.
Administration: Federal Aviation Administration.
Title: Maintenance, Preventive Maintenance, Rebuilding and Alteration—FAR 43.
Need/Proposed Use of Information: The information is necessary to ensure that the maintenance, rebuilding and alteration of aircraft, is performed by qualified persons and at proper intervals.
Frequency: On occasion.
Burden Estimate: 4,491,597 hours.
Respondents: Individuals (Mechanics, pilots, etc.).
Form(s): FAA Form 337.

DOT No.: 3099.
OMB No.: 2133–0029.
Administration: Maritime Administration.
Title: Shipbuilding Orderbook and Shipyard Employment.
Need for Information: To satisfy shipyard mobilization base contingency planning requirements.
Proposed Use of Information: To determine the number, location and efficiency of certain shipyards for emergency mobilization planning.
Frequency: Quarterly.
Burden Estimate: 42 hours.
Respondents: Shipyards.
Forms: MA–832.
Average Burden Hours Per Respondent: Approx. 30 min.

DOT No.: 3100.
OMB No.: 2105–0510.
Administration: Department of Transportation/OST.
Title: Report of DBE Awards and Commitments.
Need for Information: Needed to determine extent to which DOT recipients are meeting their approved goals.
Proposed Use of Information: To report to Congress on DOT's success in meeting its statutory DBE program requirements.
Frequency: Annually/semi-annually/quarterly.
Burden Estimate: 21,492 hours.
Respondents: Recipients of DOT financial assistance funds.
Form(s): One.

DOT No.: 3101.
OMB No.: 2125–0008.
Administration: Federal Highway Administration.
Title: Unit Maintenance Cost Index.
Need for Information: For FHWA to develop national cost trends for labor, materials, and equipment rental rates.
Proposed Use of Information: For FHWA to monitor changes in the highway maintenance program and to provide guidance for estimating future highway maintenance requirements.
Frequency: Annually.
Burden Estimate: 208.
Respondents: State highway agencies.
Form(s): FHWA–1521.

DOT No.: 3102.
OMB No.: 2127–0512.
Administration: National Highway Traffic Safety Administration.
Title: Consolidated Labeling Requirements for Motor Vehicles (Except the VIN Numbers) 49 CFR 571.105, 205, 209 and Part 567.
Need for Information: To show performance requirements for the protection of vehicle occupants in crashes.
Proposed Use of Information: Motor vehicles and motor vehicle equipment must be properly labeled to provide for safe operation by users and to ensure prompt identification of such equipment in the event of safety related defects.
Frequency: On occasion.
Burden Estimate: 76,317 hours (see attached page for disaggregated burden estimate).
Respondents: 3,005.
Form(s): None.

DOT No.: 3103.
OMB No.: 2127–0002.
Administration: National Highway Traffic Safety Administration.
Title: Forms Utilized for Assuring Compliance of Imported Motor Vehicles and Motor Vehicle Equipment.
Need for Information: To Import vehicles and vehicle equipment.
Proposed Use of Information: To aid importers of foreign made vehicles import cars that do not comply with FMVSS.
Frequency: On occasion.
Burden Estimate: 44,832 hours. HS–7 it takes 0.08333 hours to comply with regulations. Handbook it takes 4.0 hours to comply with regulations.
Respondents: Importers.
Form(s): HS–7 and Statement of Conformity.

DOT No.: 3104.
OMB No.: 2127–0005.
Administration: National Highway Traffic Safety Administration.
Title: Motor Vehicle Recall Campaign Audit.
Need for Information: To determine if recalls were effective.
Proposed Use of Information: Owners of all types of motor vehicles and motor vehicle equipment that have been recalled by manufacturers report how the recall effort was performed by the manufacturer and its dealers, and if the recall work completed was in compliance with the Act.
Frequency: On occasion.
Burden Estimate: 20,000 hours. It takes 0.1 hour to read the recall letter and complete the card.
Respondents: Individuals/state or local governments/businesses/Federal agencies and small businesses.
Form(s): HS–116.

DOT No.: 3105.
OMB No.: 2125–0527.
Administration: Federal Highway Administration.
Title: Public Lands Highway Applications.
Need for Information: To meet FHWA requirements for States to submit an application for the allocation of public lands highway funds.
Proposed Use of Information: For FHWA to allocate public lands highway funds based on the application of the State highway agency.
Frequency: Annually.
Burden Estimate: 2,700.
Respondents: State highway agencies.
Form(s):

DOT No.: 3106.
OMB No.: 2127–0008.
Administration: National Highway Traffic Safety Administration.
Title: Vehicle Owner's Questionnaire.

Need for Information: To determine problem vehicles.

Proposed Use of Information: Solicits information from vehicle owners to determine whether a safety defect exists in motor vehicles, motor vehicle equipment or tires, which is used to identify and evaluate possible defects and provide the necessary evidence of the existence of such a defect.

Frequency: On occasion.

Burden Estimate: 15,960 hours. HS–350 and 350B. It takes 25 minutes to complete each of forms.

Respondents: Vehicle/vehicle equipment owners.

Form(s): HS–350 and 350B.

DOT No.: 3107.

OMB No.: 2127–0541.

Administration: National Highway Traffic Safety Administration.

Title: Owner's Manual Requirements—Motor Vehicles and Motor Vehicle Equipment, 49 CFR 571.126, 205, 208, 210 575.102 and 105.

Need for Information: To inform vehicle owners and passengers about proper use of the vehicle or equipment.

Proposed Use of Information: Certain safety information which could benefit the vehicle owner or operator by reducing the risk of harm must be included in the vehicle owner's manual to provide for safe operation by users.

Frequency: On Occasion.

Burden Estimate: 704 hours.

Respondents: Businesses/small businesses.

Form(s): None.

DOT No.: 3108.

OMB No.: 2127–0045.

Administration: National Highway Traffic Safety Administration.

Title: 49 CFR Part 556, Petitions for Inconsequentiality.

Need for Information: To determine that a defect or noncompliance is inconsequential.

Proposed Use of Information: This regulation establishes procedures for manufacturers to petition this agency for an exemption from the notice and remedy requirements of the safety Act due to the inconsequentiality of the defect or noncompliance as it relates to motor vehicle safety.

Frequency: On occasion.

Burden Estimate: 30 hours. It takes about 2 hours to prepare one petition, based on the length of the petition.

Respondents: Businesses/organizations.

Form(s): None.

DOT No.: 3109.

OMB No.: New.

Administration: Federal Aviation Administration.

Title: FAA Administrator's Award for Excellence in Aviation Education.

Need for Information: The FAA needs the information for its recognition and award program to identify candidates for awards.

Proposed Use of Information: We will use the information to identify and reward those educators who are making the most use of innovative aviation related instructional techniques.

Frequency: Annually.

Burden Estimate: 10,750.

Respondents: Individuals.

Form(s): None.

DOT No.: 3110.

OMB No.: 2120–0075.

Administration: Federal Aviation Administration.

Title: Airport Security FAR–107.

Need/Proposed Use of Information: To ensure that airport security programs provide for the protection of persons and property in Air Transportation against acts of criminal violence.

Frequency: On occasion and Semi-annual.

Burden Estimate: 39,486 hours.

Respondents: Airport Operators.

Form(s): None.

Issued in Washington, DC, on July 28, 1988.

Robert J. Woods,

Director of Information Resource Management.

[FR Doc. 88–17471 Filed 8–2–88; 8:45 am]

BILLING CODE 4910–62–M

Office of Commercial Space Transportation

[Docket 45738; Notice 88–12]

Orbital Debris; Request for Comments

AGENCY: Office of Commercial Space Transportation, DOT.

ACTION: Request for comments [Docket 45738; Notice 88–12].

SUMMARY: The U.S. Government is studying the effects of orbital debris on ongoing and future space activities. The Inter-Agency Group for Space (IG(Space)), which includes NASA, DOD, DOT, and other agencies, is conducting a study of this issue that will identify options and make recommendations concerning future federal action. To assist this effort, the IG (Space) is interested in receiving public comments concerning this matter. The Government is interested in receiving comments from all interested parties in light of its dual responsibilities both to conduct space activities itself and to supervise space activities conducted by private commercial U.S. parties.

DATE: Comments should be received by August 26, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald K. Gress, Licensing Programs Division, Office of Commercial Space Transportation, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, Phone: (202) 366–2810.

ADDRESS: The information should identify the commenter and the person, firm, or association that the commenter represents and should be submitted to the Documentary Services Division, Attention /C–55, Docket Number 45738, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Office is interested in obtaining the views and comments of interested parties, including the launch industry, satellite manufacturers and owners, universities, astronomical groups, and other users of space. In particular, the Office is interested in receiving comment on the following:

- Physical dimensions of orbital debris growth
- Effects of orbital debris on space activities conducted by commenters
- Potential costs to the commenters of debris effects and potential impact on future space activities, if no action is taken
- Future plans, if any, of the commenters designed to counter the effects of debris
- Future options for dealing with debris, including their perceived cost impacts and cost effectiveness
- Regulatory implications and alternatives that should be considered in addressing the space debris issue

NASA is publishing a similar request for comment in the *Commerce Business Daily* (CBD). Duplicate responses to this request for comment and the CBD announcement are unnecessary. The Department is especially interested, however, in receiving information with specific relevance to its role as lead agency for Federal policy and guidance pertaining to commercial launch activities. Information or data requested to be treated as proprietary or confidential should be clearly marked as such. The Department will consider late filed comments to the extent possible.

Supplementary oral comments may be delivered at forums to be conducted by the Interagency Group on August 31 and September 1, 1988. Only parties submitting written comments by August 26 may be scheduled for verbal comments. Comments will be limited to 15 minutes per party. The meetings for comments will be held at NASA HQ, Washington, DC. Please include a request, with a phone number, for an

opportunity to present supplementary oral comments. Appointments for delivering comments will be confirmed by phone on August 29 and 30. Contact William Djinis, Code MD, NASA HQ at 202/453–1157 with any questions concerning verbal comments.

Issued in Washington, DC on July 29, 1988.

Courtney A. Stadd,

Director, Office of Commercial Space Transportation.

[FR Doc. 88–17487 Filed 8–2–88; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–88–29]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regualtory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before August 23, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 28, 1988.

Deborah E. Swank,

Acting Manager, Program Management Staff.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
25079	Montex Drilling Company	14 CFR 61.58(c)	To extend Exemption No. 4736 that allows petitioner's pilots to complete the entire 24-month pilot-in-command check in an FAA-approved simulator provided the pilot taking the flight check has complete three takeoffs and three landings within the preceding 90 days in a BAC 1–11 aircraft.
25365	United States Air Force	91.70	USAF on behalf of SAC, would like to withdrawn the petition for exemption to FAR Part 91.70.
25603	Fokker Aircraft U.S.A., Inc.	14 CFR 145.73 and 43.3	To allow petitioner, pursuant to its foreign repair station certification, to perform maintenance and repair work on U.S.-registered aircraft manufactured by the petitioner, and components thereof, regardless of where such aircraft operate.
25068	Aviation Methods, Inc.	14 CFR 1325.165(b)(5) and (6)	To allow extended overwater operations using one high frequency (HF) transceiver.
25620	Hamilton Aviation	14 CFR 145.37(b)	To allow petitioner to conduct maintenance work on Boeing 747, Douglas DC–10, and Lockheed L–1011 aircaft under a Class IV airframe rating.

Petitions for Exemption

Docket No.	Petitioner	Regulations Affected	Description of relief sought disposition
23488	Amway Corporation	14 CFR 61.58(c)	To extend Exemption No. 4566, which allows pilots of petitioner to complete the 24-month pilot-in-command check in an airplane simulator provided that the pilot taking the check has completed three takeoffs and three landings within the preceding 90 days in the BAC 1–11 aircraft. Exemption No. 4566 expired on 12/3/87. *Grant, July 21, 1988, Exemption No. 4964.*
23543	Arnautical, Inc.	14 CFR 61.63(d)(2) and (3) and Part 61, Appendix A.	To permit trainees of petitioner, who are applicants for a type rating to be added to a private or commercial pilot certificate, to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d)(2) and (3), and to complete a portion on that practical test in a simulator as authorized by § 61.157(d). *Grant, July 18, 1988, Exemption No. 4581A.*
24633	Hercules Flight Training Center	14 CFR 61.48(c)(1) and (d); 61.157(d)(1) and (2); and Part 61, Appendix A.	To permit petitioner and persons who contract for services provided by petitioner to complete certain proficiency checks and practical tests in its visual simulators. Petitioner previously held Exemption No. 4552, granting the same privileges. Exemption No. 4552 expired on November 30, 1987. *Grant, July 21, 1988, Exemption No. 4963.*
25291	SilverStar Aviation, Inc. (formerly Pumpkin Air, Inc., and Ramwood Inc.).	14 CFR 133.45(e)(1)	To allow petitioner emergency lifesaving Class D rotorcraft-load combination operation under certain conditions when one-engine inoperative hover capability cannot be met under the weight and altitude restrictions for the rotorcraft's type certificate. *Denial, July 21, 1988, Exemption No. 4966.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations Affected	Description of relief sought disposition
25549	United Technologies Corporation, Pratt & Whitney Group, Overhaul and Repair Operations; and Turbine Overhaul Services Private Limited (TOSPL).	14 CFR 145.73(a)	To allow TOSPL to perform maintenance, preventive maintenance, and alterations on certain compressor blades and turbine vanes used in JT8D and UT9D engines and utilized on U.S.-registered aircraft without regard as to their geographic scope of operations. *Grant, July 21, 1988, Exemption No. 4965.*
25536	Hazeltine Corporation	91.79(b) & (c), 91.87(d)(2) & (d)(3), 91.109(a)(1) & (a)(2).	An exemption would facilitate thorough MLS flight inspections operations necessitated by contract with the Federal Aviation Administration (FAA). *Granted: July 20, 1988.*

[FR Doc. 88-17438 Filed 8-2-88; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; St. Joseph County, City of Mishawaka, IN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Retraction of notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project located in the City of Mishawaka, St. Joseph County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Threlkeld, District Engineer, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana, Telephone: (317) 269-7481.

SUPPLEMENTARY INFORMATION: The FHWA issued a Notice of Intent in the Tuesday, October 13, 1987, Federal Register indicating that an environmental impact statement (EIS) would be prepared for a proposed 4-lane access controlled highway in the City of Mishawaka and unincorporated area of St. Joseph County. The proposed highway has an alignment following along and/or adjacent to existing sections of Capital Avenue.

Letters and preliminary information describing the proposed action were sent to various Federal, State and local public agencies on September 9, 1987 to solicit comments on the proposed action. An informal public information meeting was held on December 4, 1987 and an early coordination meeting with Federal and State public agencies was held on February 4, 1988.

Comments received from the public agencies and citizens of the project area during the coordination phase indicated that no significant impacts upon the environment are anticipated. Therefore, it has been determined that an EIS will not be prepared. An Environmental Assessment (EA) will be prepared for assessing potential impacts of the proposed action.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on July 26, 1988.

James E. Threlkeld,

District Engineer, Indianapolis, Indiana.

[FR Doc. 88-17454 Filed 8-2-88; 8:45 am]
BILLING CODE 4910-22-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from John Turner, Department of Veterans Benefits (203C), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: July 25, 1988.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Revision

1. Department of Veterans Benefits
2. Request for Verification of Employment
3. VA Form 26-8497
4. This form is used by lenders for verifying loan applicants' income and employment information.
5. On occasion
6. Business or profit
7. 369,059 responses
8. 61,643 hours
9. Not applicable

[FR Doc. 88-17421 Filed 8-2-88; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Thursday, August 25, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.
Rule Enforcement Reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–17596 Filed 8–1–88; 3:51 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, August 25, 1988.

PLACE: 2033 K St., NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the AMEX Commodity Corporation for designation as a contract market in Gold Warrants (options).

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–17595 Filed 8–1–88; 3:51 pm]

BILLING CODE 6351–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 29, 1988.

TIME AND DATE: 10:00 a.m., Thursday, August 4, 1988.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will consider and act upon the following:

2. *FMC Wyoming Corporation*, Docket Nos. WEST 86–43–RM, etc. (Issues include consideration of a petition for discretionary review.)

It was determined by a unanimous vote of Commissioners that this item be included on the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629 / (202) 566–2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88–17564 Filed 8–1–88; 3:04 pm]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, August 8, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: August 1, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–17554 Filed 8–1–88; 12:27 pm]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR, Wednesday, July 25, 1988, Page No. 28332.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, July 27, 1988.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted the open session of its previously announced meeting at which it was to discuss Consideration of Commission Policy On the Duration and Termination of Commission Orders.

Note.—This meeting has been moved from open to closed session to reflect the anticipation of discussion of law enforcement matters.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88–17499 Filed 8–1–88; 8:45 am]

BILLING CODE 6750–01–M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Tuesday, August 9, 1988 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints: Certain Electric Power Tools, Battery Cartridges, and Battery Chargers (Docket Number 1438).
5. Inv. Nos. 701–TA–293–295 and 731–TA–412–419 (P) (Industrial Belts from Israel, Italy, Japan, Singapore, South Korea, Taiwan, The United Kingdom, and West Germany)—briefing and vote.
6. Inv. Nos. 731–TA–385–386 (F) (Granular Polytetrafluoroethylene Resin from Italy and Japan)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Kenneth R. Mason,

Secretary.

July 27, 1988.

[FR Doc. 88–17494 Filed 7–29–88; 5:05 pm]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 28332—dated July 27, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3:00 p.m., Thursday, August 4, 1988.

CHANGE IN TIME AND DATE OF THE MEETING: 8:45 a.m., Friday, August 5, 1988.

Notice is given that the Commission meeting previously announced as beginning at 3:00 p.m., on August 4, 1988, will begin at 8:45 a.m. on Friday, August 5, 1988 instead. In conformity with 19 CFR 201.37(b), Commissioners Brunsdale, Eckes, Liebeler, Lodwick,

Rohr, and Cass determined that Commission business required the change in time and date of the meeting originally scheduled for August 4, 1988, and affirmed that no earlier announcement of the change to the date and time was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Kenneth R. Mason,

Secretary.

July 19, 1988.

[FR Doc. 88–17502 Filed 8–1–88; 9:34 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, August 9, 1988.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

PURPOSE: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 32000.

Rio Grande Industries, Inc., SPTC Holding, Inc., The Denver and Rio Grande Western Railroad Company—Control—Southern Pacific Transportation Company.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Government and Public Affairs, Telephone: (202) 275–7252.

Noreta R. McGee,

Secretary.

[FR Doc. 88–17550 Filed 8–1–88; 12:28 pm]

BILLING CODE 7035-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., August 18, 1988.

9:00 a.m. to 5:00 p.m., August 19, 1988.

9:00 a.m. to 3:00 p.m., August 20, 1988.

PLACE: State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: Consideration of Applications submitted for Institute funding.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22312, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 88–17597 Filed 8–1–88; 3:51 pm]

BILLING CODE 6820-SC-M

Corrections

Federal Register
Vol. 53, No. 149
Wednesday, August 3, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1408

Setoff, Withholding and Stop Payment Policies

Correction

In proposed rule document 88-15330 beginning on page 26081 in the issue of Monday, July 11, 1988, make the following correction:

§ 1408.11 [Corrected]

On page 26082, in the second column, in the introductory text of § 1408.11, in the second line, "will be" should read "will not be".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51707; FRL-3405-7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 88-14381 beginning on page 24143 in the issue of Monday, June 27, 1988, make the following corrections:

1. On page 24144, in the second column, under **P 88-1337**, in the third line, "pheyl" should read "phenyl".

2. On the same page, in the third column, under **P 88-1346**, in the second line, "Anthracendione" should read "Anthracenedione". Also under **P 88-1348**, in the fifth line, "*Use/Import.*" should read "*Use/Production.*".

3. On page 24145, in the second column, under **P 88-1367**, in the seventh line, "toxicity" was misspelled.

4. On the same page, in the third column, under **P 88-1375**, in the fifth line, "(S) Industrial" should read "(G) Industrial".

5. On page 24146, in the first column, under **P 88-1379**, in the first line, "Ciba-Deigy" should read "Ciba-Geigy". Also in the fifth line, "(S) Textile" should read "(G) Textile"; and under **P 88-1389**, in the fifth line, "(S) Ink" should read "(G) Ink".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-08-4321-01; A 23376]

Realty Action; Exchange of Public Lands; Apache County, AZ

Correction

In notice document 88-15107 beginning on page 25387 in the issue of Wednesday, July 6, 1988, make the following corrections:

1. On page 25388, in the first column, in the first bold heading "Meridian" was misspelled.

2. On the same page, in the second column, in the fifth line "Sec. 36" should read "Sec. 32".

3. On page 25389, in the first column, in the eighth line, "Sec. 12" should read "Sec. 32".

BILLING CODE 1505-01-D

federal register

Wednesday
August 3, 1988

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701 and 785

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Permits for Special Categories of Mining; Special Permanent Program Performance Standards; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701 and 785

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Permits for Special Categories of Mining; Special Permanent Program Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) proposes to establish separate definitions of the terms "agricultural activities" and "farming" to replace the suspended definition of "agricultural activities or farming." Related changes are proposed to conform these new definitions with the existing regulations governing mining on Alluvial Valley Floors (AVF's).

Also, OSMRE proposes to amend its regulations to specify the essential hydrologic functions of AVF's for which information must be provided in a permit application.

DATES:

Written comments: OSMRE will accept written comments on the proposed rule until 5:00 p.m. Eastern time on September 19, 1988.

Public hearings: Upon request, OSMRE will hold public hearings on the proposed rule in Washington, DC and Denver, Colorado at 9:30 a.m. local time on August 31, 1988. In addition, if requested OSMRE also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for hearings at these additional locations until 5:00 p.m. Eastern Time on August 24, 1988. Individuals wishing to attend but not testify at any hearing should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, 1100 L Street NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, 1951 Constitution Avenue NW., Washington, DC 20240.

Public Hearings: Department of the Interior Auditorium, 18th and C Streets, NW., Washington, DC; and Brooks Towers, 2nd Floor Conference Room, 1020 15th St., Denver, Colorado. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota and Washington, will be announced prior to the hearings.

Request for Public Hearings: Submit requests orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Douglas Growitz, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–1507 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period or delivered to addresses other than those listed above (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule upon request only. The times, dates and addresses for two scheduled hearings are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The times, dates and addresses for any additional hearings which may be requested for the remaining locations have not been determined, but will be announced in the **Federal Register** at least 7 days prior to any hearings held at those locations. Persons who wish to participate in a hearing at any of these additional locations for which no hearing has been pre-scheduled, should notify Mr. Growitz (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5:00 p.m. Eastern time August 24, 1988.

If no one has contacted Mr. Growitz to express an interest in participating in a hearing at any given location by August 24, 1988, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

Statutory Provisions

In addition to the general environmental protection performance standards applicable to all lands, the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, provides specific protection for alluvial valley floors (AVF's). Section 701(1) of the Act, 30 U.S.C. 1291(1), defines "alluvial valley floors" as "unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities * * * ".

Subject to a number of exceptions, section 510(b)(5) of the Act, 30 U.S.C. 1260(b)(5), requires a surface coal mining operation permit application to demonstrate affirmatively, and the regulatory authority to find in writing, that a number of requirements unique to AVF's would be satisfied by the proposed operation. Section 510(b)(5)(A) requires that the application demonstrate that the surface coal mining operation would "not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated * * * ". In addition, section 510(b)(5)(B) requires a demonstration that the operation would not materially damage the quantity or quality of water in surface or underground water systems that supply the AVF's referred to in paragraph (5)(A).

As provided in section 510(b)(5), these requirements do not apply to:

(1) Surface coal mining operations located east of the 100th meridian west longitude;

(2) Undeveloped range lands which are not significant to farming on the AVF's;

(3) Lands for which the regulatory authority finds that the mining operation will only interrupt, discontinue or preclude farming of "such small acreage as to be of negligible impact on the farm's agricultural production[;]" and

(4) Those surface coal mining operations which in the year preceding the enactment of the Act (August 3, 1977) produced coal in commercial quantities, and were located within or adjacent to AVF's or had specific permit approval from the State regulatory authority to conduct surface coal mining operations on AVF's.

Another exemption from the section 510(b)(5) requirements is provided by section 506(d)(2) of the Act, 30 U.S.C. 1256(d)(2), for new operations proposed in an application for renewal or revision of a permit issued under the Act where the new operations extend to land beyond the boundaries authorized in the original permit. This exemption applies only if (1) the new land previously was identified in the reclamation plan submitted under section 508 of the Act, and (2) the original operations were exempt from the requirements of section 510(b)(5) of the Act under the section 510(b)(5) proviso for operations which produced coal in commercial quantities in the year preceding enactment of the Act.

Irrespective of whether the standards of section 510(b)(5) for the protection of farmed AVF's apply to a particular surface coal mining operation, the hydrologic protection requirements of section 515(b)(10) of the Act, 30 U.S.C. 1265(b)(10), do apply. Section 515(b)(10) requires that mining operations take certain steps to minimize disturbances to the prevailing hydrologic balance at the mine site and in associated off site areas, and to the quality and quantity of water in surface and ground water systems. This requirement applies both during and after surface coal mining operations and during reclamation. The required steps include, as specified in section 515(b)(10)(F), preserving throughout the mining and reclamation process the essential hydrologic functions of AVF's in the arid and semiarid areas of the country.

Regulatory History and Court Decision

Section 701.5 Definition of "agricultural activities or farming".

The term "agricultural activities" was first defined in a final rule published on March 13, 1979 (44 FR 15317). The rule did not define the term "farming." On June 28, 1983 (48 FR 29820), the substance of the definition was revised somewhat, and its scope was expanded to cover either "agricultural activities *or* farming." Under the revised definition the term "agricultural activities *or* farming" meant:

> [W]ith respect to alluvial valley floors, the use of any tract of land for the production of animal or vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, pasturing or grazing of livestock, and the cropping, cultivation, or harvesting of plants whose production is aided by the availability of water from subirrigation or flood irrigation. Those uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

The preamble to the June 28, 1983 rule (48 FR 29803) stated that although the Act and OSMRE's regulations use both the terms "agricultural activities" and "farming," their meaning with respect to AVF's is the same.

Coal industry plaintiffs in *In Re: Permanent Surface Mining Regulation Litigation (II) (In Re: Permanent II)*, No. 79–1144 (D.D.C. October 1, 1984), challenged the combined definition of "agricultural activities *or* farming" arguing that the term "agricultural activities" is more general than the term "farming," and thus encompasses more land uses.

Reasoning that the use of two different terms in the Act indicated a congressional intent to prescribe a different meaning to each, the court in *In Re: Permanent II* remanded the definition of "agricultural activities *or* farming." Slip op. at 30–31. The court held that the Secretary must reconsider the definition and any additional regulations necessary to conform them to congressional intent. On February 21, 1985 (50 FR 7274), OSMRE suspended the definition. OSMRE since has reconsidered the definition and is now proposing separate definitions for "agricultural activities" and "farming." OSMRE is also proposing other rule changes needed for conformity with the proposed definitions.

Section 785.19(d)(2)(i) Information on the essential hydrologic functions of alluvial valley floors.

The March 13, 1979, permanent program rules at 30 CFR 785.19(d)(3) (44 FR 15375) described specific information, surveys and analyses that a surface coal mining and reclamation permit application was required to include concerning the geologic, hydrologic and biologic characteristics that support the essential hydrologic functions of AVF's. These rules were revised by OSMRE on June 28, 1983 (48 FR 29821) as part of a major revision of the AVF rules. The revised regulation at 30 CFR 785.19(d)(2)(i) required that the permit application include detailed surveys and baseline data required by the regulatory authority for a determination of the characteristics of AVF's which are necessary to preserve their essential hydrologic functions throughout the mining and reclamation process. However, the details formerly contained in § 785.19(d)(3) of precisely what such surveys and baseline data should consist of had been deleted.

The citizen and environmental plaintiffs in *In Re: Permanent II* challenged the deletion of the specific requirements from the rule on the grounds that the preamble to the rule contained inadequate justification for the revision. The court remanded 30 CFR 785.19(d)(2)(i) for OSMRE to provide guidance to operators and regulatory authorities as to what type of information was required. Slip op. 30–40. The United States Court of Appeals for the District of Columbia Circuit affirmed the district court remand, concluding that the Secretary did not adequately explain why such guidance was not needed. *NWF v. Hodel*, No. 84–5743, Slip op. at 67–73. (D.C. Cir. January 29, 1988). OSMRE now proposes to amend § 785.19 accordingly.

III. Discussion of Proposed Rule

General

In developing the proposed rule, OSMRE solicited and received comments on draft rule language from citizen and environmental groups, industry trade associations, and State regulatory authorities. These comments have been considered in drafting the rule.

The proposed rule would remove from 30 CFR 701.5 the definition of the term "agricultural activities *or* farming" and replace it with separate definitions of the terms "agricultural activities" and "farming." This change is being proposed in response to the court's suggestion that "the use of different words does connote an intent [by the Congress] to prescribe a different meaning" for these terms. Slip op. at 31.

To conform related AVF rules with these proposed definitions OSMRE is also proposing to revise the definition of "materially damage the quantity or quality of water" and to revise 30 CFR 785.19(b)(2)(ii) and (b)(3).

OSMRE also proposes to revise 30 CFR 785.19(d)(2)(i) in response to the

court order that specific guidance to operators and regulatory authorities as to what type of information about potentially affected AVF's must be placed in a permit application.

Each of these proposed changes is discussed in detail below.

A. Section 701.5 Definitions of "agricultural activities" and "farming"

The proposed rule at 30 CFR 701.5 would remove the suspended definition of the term "agricultural activities *or* farming" and replace it with separate definitions of the terms "agricultural activities" and "farming." OSMRE is proposing this change following reexamination of the legislative history of the Act in response to the remand order issued by the district court.

1. Court Decision

The district court in *In Re: Permanent II* stated:

> Congress used the term "agricultural activities" in its definition of AVF's, 30 U.S.C. § 1291(1), and "farming" in describing permit requirements. *Id.* at § 1260(5)(A). This court will not presume to define these terms, but the use of different words does connote an intent to prescribe a different meaning.
>
> (Slip op. at 31, citation omitted.)

Thus, separate definitions of these two terms are required by the court's decision if they are needed to conform the OSMRE regulations with congressional intent.

2. Legislative History

To determine congressional intent OSMRE reexamined the legislative history of the Act as it relates to AVF's. Based on the legislative history of section 510(b)(5) of the Act, OSMRE has concluded that separate definitions are appropriate.

The Congress used the term "agricultural activities" in section 701(1) of the Act in defining "alluvial valley floors." The term "farming" was used in section 510(b)(5)(A) of the Act in the AVF permit finding provision. In an attempt to strike a balance between the need to preserve the productive use of AVF's and the need to recover coal beneath them, it appears that the Congress intended section 510(b)(5) of the Act to protect only those AVF's which support farming, and not those which support other agricultural activities such as ranching.

Early versions of section 510(b)(5)(A) of the Act would have protected ranching as well as farming on AVF's. Both the House and Senate bills at one time prohibited the regulatory authority from approving a permit unless it found that the proposed surface coal mining operation, if located west of the 100th meridian west longitude, would "not have a substantial adverse effect on valley floors * * * where farming can be practiced * * * (excluding undeveloped range lands), where such valley floors are significant * * * *farming and ranching operations* * * *" H.R. Rep. No. 45, 94th Cong., 1st Sess. 22 (1975) (Report accompanying H.R. 25); S. Rep. No. 128, 95th Cong., 1st Sess. 20 (1977) (Report accompanying S. 7) (emphasis added). Additionally, both bills extended this prohibition to potential as well as present farming and ranching.

The language extending the coverage to "ranching operations" was deleted by the House in 1976 and by the Senate in 1977. After H.R. 25 was reported out in 1975, a controversy arose concerning the scope of section 510(b)(5). In the next session the House adopted language very similar to the provision as was finally enacted on August 3, 1977. It provided that the regulatory authority could not approve the permit unless it found that the operation would not "interrupt, discontinue, or prevent *farming* on alluvial valley floors, * * * but, excluding undeveloped range lands * * * and those lands as to which the regulatory authority finds that if the *farming* that will be interrupted * * * is of such small acreage as to be of negligible impact on the *farm's agricultural production* * * *" Section 510(b)(5) of the 1976 House bill also contained a provision grandfathering certain operations which existed prior to the enactment of the Act. *See* H.R. Rep. No. 896, 94th Cong., 2nd Sess. 2 (1976) (Report accompanying H.R. 9725).

Although the deletion of the term "ranching" was not specifically discussed, the debates on the floor indicate that the Congress amended the AVF permit finding provision largely in response to the Administration's concern that the provision in the 1975 House bill could be read to "close some existing mines and * * * lock up significant coal reserves." 121 Cong. Rec. 12958, 62–64 (May 5, 1975); H.R. Rep. No. 896, 94th Cong., 2d Sess. 3 (1976). The effect of the amendment was to increase the recoverability of coal underlying AVF's by deleting both the protection for present and potential ranching, and by adding the grandfather provisions and the small acreage exemption.

The Senate did not delete the ranching protection from the AVF permit finding provision of its bill until May of 1977 when it passed a compromise amendment introduced by Senator Melcher. Senator Johnston first introduced an amendment which required a finding that the operation would not interrupt, discontinue or prevent farming on AVF's unless, among other matters, "the total value of the coal mined * * * would exceed, by a ratio of 100 to 1, the total value of the *farming or ranching* products that would be produced from said acreage * * *" 123 Cong. Rec. S 8030 (daily ed.) (May 19, 1977) (emphasis added). Senator Hart then offered an amendment which would have banned all mining on AVF's irrespective of the agricultural use of the land, with a limited grandfather provision. 123 Cong. Rec. 15691 (May 20, 1977). These two amendments were defeated.

A third amendment, introduced by Senator Melcher and ultimately adopted by the Senate, contained the identical language of the 1976 House bill, including the deletion of the protection for ranching, and the addition of the grandfather provision and the small acreage exemption. The Senator emphasized that this language was designed to protect lands where there was farming that depended on irrigation. He further stated that in 1976 this language had been carefully reviewed and represented a compromise among environmental and labor groups, coal companies, individual landowners and government agencies. 123 Cong. Rec. 15751 (May 20, 1977). The Senator characterized his amendment as a "middle ground [between the Hart and the Johnston amendments] * * * because it does retain the restrictions on keeping the alluvial valley floor *farming* operations intact. But it allows enough discretion through the regulatory authority to allow [mining] in those instances where the mining operation would not violently disturb a *farming operation* on a valley floor * * *" 123 Cong. Rec. at 15752 (emphasis added).

The legislative history of section 510(b)(5), therefore, indicates that the Congress twice rejected language which would have broadened the scope of the AVF permit finding provision to encompass ranching as well as farming activities. OSMRE's 1983 combined definition of "agricultural activities *or* farming" therefore appears inconsistent with congressional intent. Accordingly, OSMRE has proposed to define "farming" as a subset of "agricultural activities" distinct from ranching.

3. Definitions Proposed

As described above, it appears from the debates leading to adoption of the Melcher amendment that the Congress intended to protect only those AVF's being farmed and not those being ranched. (See A.2. *Legislative history*, above.) Therefore, in proposing separate definitions of "agricultural activities" and "farming" consistent with the

legislative history it is necessary to distinguish farming from ranching. OSMRE believes the most practical way to make that distinction is to consider "pasturing or grazing of livestock" in the arid and semi-arid areas west of the 100th meridian as ranching, and to limit farming to activities which involve raising plants. That concept is embodied in the proposed definitions described below.

"Agricultural activities". The definition proposed for "agricultural activities" is similar to the remanded definition of "agricultural activities *or* farming." However, the specific terms "cultivation," "cropping," and "harvesting" found in the definition of "agricultural activities or farming" are replaced in the proposed definition by the generic term "farming." Therefore, the proposed definition of "agricultural activities" reads as follows:

Agricultural activities means, with respect to alluvial valley floors, the use of any tract of land for the production of animal or vegetable life, based on regional agricultural practices, where the use is enchanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, farming and the pasturing or grazing of livestock. These uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

"Farming". For consistency with the definition of "agricultural activities" described above, OSMRE proposes to define "farming" in terms of the "cultivation," "cropping" and "harvesting" of plants.

Farming means, with respect to alluvial valley floors, the primary use of those areas for the cultivation, cropping and harvesting of plants which benefit from irrigation, or natural subirrigation, that results from the increased moisture content in the alluvium of the valley floors. For purposes of this definition harvesting does not include the grazing of livestock.

This proposed definition of "farming" differs significantly from the former definition of "agricultural activities or farming." Under the former definition there was no distinction made between ranching and farming, and all agricultural activities, including ranching, that could occur on an AVF were considered to be farming. In this proposed definition farming is limited to the "cultivation, cropping, and harvesting of plants." Also, the terms "cultivation," "cropping" and "harvesting" are used in a different way from how they were used in the former definition. The use of "and" instead of "or" in linking the terms requires that all three activities (i.e. cultivation, cropping *and* harvesting) must occur for an AVF to qualify as farmed. For purposes of this rule OSMRE presumes that each is a distinct activity, and that cultivation means the preparation of the land for planting, cropping means planting and tending, and harvesting means the gathering in of the crop.

Requiring all three activities to be performed to establish that an AVF is farmed helps to ensure that there is a distinction maintained between ranching and farming. If only one of the three were required for farming to exist, then those grazed AVF's that are merely improved by cultivation or cropping activities could be considered as farmed although their primary use is the grazing of livestock, a ranching activity. For the same reason OSMRE also presumes, for purposes of this rule, that the "pasturing or grazing of livestock" is not a method of harvesting. Under this proposed rule the production of forage would only be considered a farming activity when the forage crop is mechanically harvested (i.e., cut and either stacked or bailed).

Farming as the "primary use" of an AVF. The phrase "primary use" in the definition of "farming" is intended to cover those AVF's which are farmed in most years but not in others due to an unsatisfactory yield, excess production, or some other factor. The use of an AVF for the "pasturing or grazing of livestock" in some years does not preclude the AVF from being classified as farmed and thereby entitled to the protection of section 510(b)(5) of the Act.

However, the "cultivation, cropping *and* harvesting" of plants constitute "farming" only where such activities are actually the primary use of an AVF. The suspended definition placed all "cultivation, cropping *or* harvesting" within the scope of "agricultural activities *or* farming." This proposal differs since occasional farming activities on AVF's not primarily used for "cultivation, cropping *and* harvesting," and not capable of producing crops on a regular basis, would not be considered farming.

Plants not benefitting from irrigation or subirrigation. "Farming," under the proposed definition, is limited to those "plants * * * which benefit from irrigation, or natural subirrigation, that results from the increased moisture content in the alluvium of the valley floors." Therefore, although an AVF is used for the cultivation, cropping and harvesting of plants, it would not qualify as "farmed" if the plants being cultivated, cropped and harvested do not benefit from irrigation or subirrigation.

4. Effect of Proposal

The chief consequence of defining "farming" separately from "agricultural activities" is that whenever 30 CFR 785.19 or 822.12 refers to "farming," it no longer would apply to all "agricultural activities." For example, § 822.12(b)(1) provides an exclusion from the prohibitions of § 822.12(a) "[w]here the premining use of an alluvial valley floor is undeveloped rangeland which is not significant to farming. * * *" Under the proposed definitions, this provision would not apply to every agricultural activity, but only to those activities which involve the "cultivation, cropping and harvesting" of plants. Furthermore, the provision in § 822.12(a) prohibiting mining when operations would "interrupt, discontinue, or preclude farming" on AVF's would apply only to those areas in which "farming" would be affected. The "farmed" AVF areas being affected so as to invoke the § 822.12(a) prohibition can include areas which were not being mined but would have their "farming" interrupted, discontinued, or precluded by a mining operation located on a nearby portion of the same AVF. The net effect of these proposed definitions would be to remove from those areas used for agricultural activities other than "farming" some protection afforded AVF's by the suspended rules.

5. Request for Comments

The proposed rule interprets the pasturing and grazing of livestock as a non-farming (ranching) agricultural activity and limits "farming" to those situations were cultivation, cropping and harvesting practices are all employed. Comments are solicited on whether any other meaningful or practical distinctions, consistent with the court order and the legislative history, can be made between "agricultural activities" and "farming."

B. Section 701.5 Definition of "materially damage the quantity or quality of water"

As required by the district court in *In Re: Permanent II*, slip op. at 31, for conformity with the proposed definitions of "agricultural activities" and "farming" OSMRE proposes to amend the definition of "materially damage the quantity or quality of water" by substituting the term "farming" for the term "agricultural activities." The revised definition would read as follows:

Materially damage the quantity or quality of water means, with respect to alluvial valley floors, to degrade or reduce by surface coal mining and reclamation operations the

water quantity or quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support farming.

OSMRE believes, based on its previously discussed review of the legislative history of the Act and decision of the district court in *In Re: Permanent II*, that the material damage finding required by section 510(b)(5)(B) of the Act applies only to AVF's which support "farming." Therefore, the definition of "material damage" should be limited to decreases in the capability of those AVF's to support "farming" instead of all "agricultural activities." The result of this change would be to narrow the protection afforded to AVF's by by eliminating protection for AVF's primarily used for non-farming (i.e., ranching) agricultural activities such as grazing.

C. Section 785.19(b) Applicability of statutory exclusions

Revisions also are needed to conform existing 30 CFR 785.19(b) to the proposed definitions of "agricultural activities" and "farming." Section 785.19(b)(2) provides for mining on AVF's under two of the section 510(b)(5) statutory exclusions described above. The first exclusion applies to undeveloped rangelands which are not significant to farming; the second exclusion applies to mining when the regulatory authority finds that mining activities would affect farming of "such small acreage as to be of negligible impact on the farm's agricultural production." Proposed § 785.19(b)(2)(ii) would require the regulatory authority to base its determination of whether an impact was "negligible"; on the relationship between the loss of production from the affected farmland areas to the farm's total agricultural production over the life of the mine.

This proposed provision includes several changes, but remains very similar to the 1983 final rule. Because this paragraph deals with the impact of surface coal mining on "farming," and the proposed definition of "farming" does not include the use of AVF's for grazing, OSMRE is proposing that the reference to grazing be deleted from § 785.19(b)(2)(ii). Further, because the use of AVF's for hay production falls within the proposed definition of "farming" as previously discussed, this paragraph has been reorganized and the term "hayed AVF area" deleted.

Two other editorial changes are also being proposed for clarity and consistency with the proposed definition of "farming." First, the word "total" has been added as a modifier to the term "agricultural production" to emphasize that the basis by which any impact is measured is a farm's total agricultural production over the life of the mine. Second, the phrase "vegetation and water of the developed grazed or hayed alluvial valley floor area" has been changed to "farmland areas" because the former can be construed to be related to areas which are not farmed under the proposed definition of "farming." The use of "farmland areas" is consistent with terms found in existing § 785.19(b)(3).

Proposed § 785.19(b)(3) defines a farm as a land unit on which farming is conducted. The requirements of this section are the same as those in the suspended rule except that the term "farming" has been substituted for the term "agricultural activities."

Otherwise § 785.19(b)(3) remains unchanged from the suspended rule. This revision is proposed to conform this paragraph with section 510(b)(5) of the Act, as well as with the proposed definition of "farming."

D. Section 785.19(d)(2)(i) Information on the essential hydrologic functions of alluvial valley floors

The district court in *In Re: Permanent II*, Slip op. at 38–40, remanded 30 CFR 785.19(d)(2)(i) to the Secretary to provide guidance to operators and regulatory authorities as to what type of information was required.

Section 785.19(d)(3) of the 1979 rules had included specific information requirements to describe the characteristics which support the essential hydrologic functions of alluvial valley floors. Those specific information requirements had been deleted from § 785.19(d) when it was revised in 1983. The U.S. Court of Appeals for the District of Columbia Circuit in *NWF v. Hodel*, No. 85–5743, slip op. at 68–73 (D.C. Cir. January 29, 1988), "affirm[ed] the remand so that the Secretary may provide appropriate, official guidance to the operators and regulatory authorities, or conversely, explain why such guidance is not needed. Slip op. at 73.

The special protections afforded to AVF's by the Act are described in two sections: Section 510(b)(5) prohibits a regulatory authority from approving a permit unless the applicant submits information which affirmatively demonstrates that certain protections to farming on AVF's are provided. Section 515(b)(10)(F) requires the preservation throughout mining and reclamation of the "essential hydrologic functions" of AVF's. In section 515(b)(10)(F) the Congress identified special protections to be afforded all AVF's independent of the protections for farming on alluvial valley floors provided by section 510(b)(5).

In *NWF v. Hodel* the court of appeals upheld the Secretary's view that the protection of essential hydrologic functions extended to all alluvial valley floors rather than just those significant to farming. Slip op. at 105–108. The court stated that "it seems entirely plausible * * * that Congress intended * * * to protect all alluvial valley floors in arid and semi-arid areas with a performance standard while also providing special protection at the permit stage for those alluvial valley floors significant to farming." Slip op. at 108. The court went on to say that "[a]lthough the legislative history cited by Industry clearly supports the notion that Congress intended special protection for farms dependent on alluvial valley floors, it does nothing to refute the notion that other alluvial valley floors are also subject to protection, *albeit not at the permitting stage*." Slip op. at 108 (emphasis added). This is consistent with the fact that the Act requires no permitting information on the essential hydrologic functions of AVF's.

Although the Act does not require any permit information on essential hydrologic functions, and does not require the Secretary to further elaborate or "flesh out" this performance standard, it remains within the Secretary's discretion to add corresponding permit information requirements. *NWF v. Hodel*, slip op. at 79–80. Therefore, OSMRE intends to continue to require permit information relative to preserving and reestablishing the essential hydrologic functions of all AVF's. The information requirement now being proposed, which differs from that required under the 1979 and 1983 rules, is described below.

In the 1979 rules OSMRE regulated the protection of essential hydrologic functions in three ways: First, by promulgating at 30 CFR 701.5 an extensive definition of "essential hydrologic functions" which read as follows:

Essential hydrologic functions means the role of an alluvial valley floor in collecting, storing, regulating, and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape and the physical properties of its underlying materials. A combination of these functions provides a water supply during extended periods of low precipitation.

(a) The role of the valley floor in collecting water includes accumulating runoff and discharge from aquifers in sufficient amounts to make the water available at the alluvial

valley floor greater than the amount available from direct precipitation.

(b) The role of the alluvial valley floor in storing water involves limiting the rate of discharge of surface water, holding moisture in soils, and holding ground water in porous materials.

(c)(1) The role of the alluvial valley floor in regulating the natural flow of surface water results from the characteristic configuration of the channel flood plain and adjacent low terraces.

(2) The role of the alluvial valley floor in regulating the natural flow of ground water results from the properties of the aquifers which control inflow and outflow.

(d) The role of the alluvial valley floor in making water usefully available for agricultural activities results from the existence of flood plains and terraces where surface and ground water can be provided in sufficient quantities to support the growth of agriculturally useful plants, from the presence of earth materials suitable for the growth of agriculturally useful plants, from the temporal and physical distribution of water making it accessible to plants throughout the critical phases of the growth cycle either by flood irrigation or by subirrigation, from the natural control of alluvial valley floors in limiting destructive extremes of stream discharge, and from the erosional stability of earth materials suitable for the growth of agriculturally useful plants.

44 FR 15318 (March 13, 1979)

Second, by promulgating a performance standard at 30 CFR 822.11 requiring the preservation or reestablishment of the geologic, hydrologic, and biologic characteristics that support those functions. In the pertinent part, that standard read as follows:

(a) Surface coal mining and reclamation operations shall be conducted to preserve * * * the essential hydrologic functions of alluvial valley floors not within an affected area * * * by maintaining those geologic, hydrologic and biologic characteristics that support those functions.

(b) Surface coal mining and reclamation operations shall be conducted to reestablish * * * the essential hydrologic functions of alluvial valley floors within an affected area * * * by reconstructing those geologic, hydrologic and biologic characteristics that support those functions.

(c) The characteristics that support the essential hydrologic functions of alluvial valley floors are those in 30 CFR 785.19(d)(3) * * *.

44 FR 15450 (March 13, 1979)

And third, by promulgating, at 30 CFR 785.19(d), permit information requirements to describe those characteristics. See 44 FR 15375 and 15376 (March 13, 1979).

In 1983, OSMRE revised the AVF rules with respect to essential hydrologic functions in four ways: First, the definition of "essential hydrologic functions" was shortened and simplified to read as follows:

Essential hydrologic functions means the role of an alluvial valley floor in collecting, storing, regulating, and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. A combination of these functions provides a water supply during extended periods of low precipitation.

Second, the § 822.11 performance standards were rewritten to relate *directly to protection of the essential hydrologic functions*, rather than to the "geologic, hydrologic, and biologic characteristics that support those functions." In pertinent part, § 822.11 was revised to read as follows:

(a) The operator * * * shall minimize disturbances to the hydrologic balance by preserving * * * the essential hydrologic functions of an alluvial valley floor not within the permit area.

(b) The operator * * * shall minimize disturbances to the hydrologic balance within the permit area by reestablishing * * * the essential hydrologic functions of alluvial valley floors.

Third, former paragraph § 822.11(c) containing the cross reference to § 785.19(d)(3), which specified the detailed information requirements to describe those "geologic, hydrologic, and biologic" characteristics, was removed. See 48 FR 29820 (June 28, 1983).

And fourth, the § 785.19(d) permitting requirements were revised. That revision removed: (1) The detailed information requirements previously contained in § 785.19(d)(2), which primarily related to the use of an alluvial valley floor for farming; and (2) § 785.19(d)(3), which required detailed information describing those geologic, hydrologic, and biologic characteristics necessary to support the essential hydrologic functions. See 48 FR 29820 (June 28, 1983). The 1983 revision of § 785.19(d)(2)(i) did retain, however, the requirement for detailed survey and baseline data to determine those characteristics of alluvial valley floors necessary to preserve the essential hydrologic functions, but did not specify what those surveys and baseline data should address.

In its October 1, 1984 decision, the district court in *In Re: Permanent II* remanded § 785.19(d)(2)(i) to the Secretary to provide guidance as to what type of information would satisfy this requirement in the absence of previous § 785.19(d)(3). Slip op. at 39–40. Although the court of appeals in *NWF v. Hodel* noted the deletions of both § 785.19(d)(2) and § 785.19(d)(3) (see slip op. at 69, note 51), only the deletion of previous § 785.19(d)(3), which specified permit information requirements to describe those characteristics which support the essential hydrologic functions, was the subject of the district court remand. Therefore, the scope of this rulemaking is limited to providing the necessary degree of guidance as to what information must be submitted on the permit application to describe the essential hydrologic functions of alluvial valley floors, and to explaining the deviation from the requirements of § 785.19(d)(3) of the 1979 rules. Since the 1983 changes to the information requirements contained in § 785.19(d)(2) of the 1979 rules were not related to the characteristics supporting essential hydrologic functions, and were not covered by the district court remand, this rule does not address them.

In light of the court of appeals decision upholding the district court remand of § 785.19(d)(2)(i) to the Secretary for further guidance, OSMRE has reconsidered the requirements of that section and is proposing a substantial revision. Since this rule is to address those permit application information requirements necessary for a regulatory authority to determine projected compliance with the performance standards, the proposed information requirement is structured to support the definition of essential hydrologic functions at 30 CFR 701.5 and the performance standard requiring their protection at 30 CFR 822.11, as they exist today. Since the performance standard no longer is written in terms of the characteristics which support the essential hydrologic functions, it would be inappropriate to return to the information requirements previously contained in § 785.19(d)(3), which was written in terms of those "characteristics." Instead, proposed § 785.19(d)(2)(i) is structured to reflect the revised definition of essential hydrologic functions and the performance standard requiring direct protection or restoration of those functions.

Proposed § 785.19(d)(2)(i) expands upon the 1983 rule and identifies those specific requirements for AVF information that must be included in a permit application. It requires the applicant to include in the application specified information on essential hydrologic functions of the AVF. This proposal has an emphasis different from the 1983 rule, which contained requirements to provide information on those characteristics of AVF's necessary to support their essential hydrologic functions. OSMRE believes this change is appropriate since the performance standard is no longer structured around

those characteristics, but is now built around the essential hydrologic functions themselves, and those factors related to the AVF that contribute to them. Therefore, OSMRE proposes to revise 30 CFR 785.19(d)(2)(i) (A) through (D) as described below to specify those functions of AVF's for which information is required in a permit application.

Paragraph A requires a description of those factors contributing to the collection of water within the AVF, such as the amount, rate and frequency of rainfall and runoff, surface roughness, slope and vegetative cover, infiltration and evapotranspiration, relief, and slope and density of drainage channels.

Paragraph B requires a description of those factors contributing to storing of water within the AVF, such as permeability, infiltration, depth and direction of ground water flow, porosity, and water holding capacity.

Paragraph C requires a description of those factors contributing to the regulation of the flow of surface and ground water within the AVF, such as longitudinal profile and slope of the valley and channels, the sinuosity and cross sections of the channels, interchange of water between streams and associated alluvial and bedrock aquifers, and rates and amount of water supplied by the aquifers.

Paragraph D requires a description of those factors contributing to the availability of water in the AVF, such as the presence of floodplains and terraces suitable for agricultural activities.

OSMRE believes that the detailed language added to proposed § 785.19(d)(2)(i) (A) through (D), although different from the information required under § 785.19(d)(3) of the March 13, 1979 rule, would provide the necessary guidance to operators and regulatory authorities, consistent with the revised definition and performance standards. Thus, the level of guidance sought by the district court would be provided.

IV. Procedural Matters

Effect in Federal Program States and on Indian Lands

This rule, if adopted, would be applicable through cross-referencing in those States with Federal programs and on Indian lands. Federal program States include Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States are found at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The Indian lands program is found at 30 CFR Part 750.

Comments are solicited as to whether unique conditions exist in any of these States or on Indian lands relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal programs or the Indian lands program.

OSMRE has proposed to implement a Federal program for the State of California. 52 FR 39594 (Oct. 22, 1987). Comments are also specifically solicited as to whether conditions exist in California that should be reflected in the proposed Federal program for that State.

Federal Paperwork Reduction Act

The information collection requirements contained in paragraph 785.19(d)(2)(i) of 30 CFR 785.19 of the proposed rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0040.

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared a draft environmental assessment (EA) and has made an interim finding that the proposed rule would not significantly affect the quality of the human environment under section 102(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact will be approved for the final rule in accordance with OSMRE procedures under NEPA. The EA is on file in the OSMRE Administrative Record at the address listed in the "**ADDRESSES**" section of the preamble. An EA will be completed on the final rule and a conclusion reached on the significance of any resulting impacts before promulgation of the final rule.

Author

The principal author of this rule is Douglas Growitz, Division of Reclamation Technology, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–1507.

List of Subjects

30 CFR Part 701

Law Enforcement, Surface mining, Underground mining.

30 CFR Part 785

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR Parts 701 and 785 as set forth below.

Date: June 24, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), and Pub. L. 100–34, unless otherwise noted.

2. In § 701.5 the definition of "agricultural activities *or* farming" is removed, definitions of "agricultural activities" and "farming" are added in alphabetical order, and the definition of "materially damage the quantity or quality of water" is revised to read as follows:

§ 701.5 Definitions.

Agricultural activities means, with respect to alluvial valley floors, the use of any track of land for the production of animal or vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, farming and the pasturing or grazing of livestock. These uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

* * * * *

Farming means, with respect to alluvial valley floors, the primary use of those areas for the cultivation, cropping and harvesting of plants which benefit from irrigation, or natural subirrigation, that results from the increased moisture content in the alluvium of the valley floors. For purposes of this definition harvesting does not include the grazing of livestock.

* * * * *

Materially damage the quantity or quality of water means, with respect to alluvial valley floors, to degrade or reduce by surface coal mining and reclamation operations the water quantity or quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support farming.

* * * * *

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

3. The authority citation for Part 785 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), and Pub. L. 100–34, unless otherwise noted.

4. Section 785.19 is amended by revising paragraphs (b)(2)(ii), (b)(3) and (d)(2)(i) to read as follows:

§ 785.19 Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid and semiarid areas west of the 100th meridian.

* * * * *

(b) * * *

(2) * * *

(ii) Any farming on the alluvial valley floor that would be affeced by the surface coal mining operation is of such small acreage as to be of neglible impact on the farm's agricultural production. Negligible impact of the proposed operation on farming will be based on the relative importance of the affected farmland areas of the alluvial valley floor area to the farm's total agricultural production over the life of the mine; or

* * * * *

(3) For the purpose of this section, a farm is one or more land units on which farming is conducted. A farm is generally considered to be the combination of land units with acreage and boundaries in existence prior to August 3, 1977, or, if established after August 3, 1977, with those boundaries based on enhancement of the arm's agricultural productivity and not related to surface coal mining operations.

* * * * *

(d) * * *

(2) * * *

(i) The essential hydrologic functions of the alluvial valley floor which might be affected by the mining and reclamation process. The information required by this subparagraph shall identify those factors which contribute to the collecting, storing, regulating and making the natural flow of water available for agricultural activities on the alluvial valley floor and shall include, but are not limited to:

(A) Factors contributing to the function of collecting water, such as amount, rate and frequency of rainfall and runoff, surface roughness, slope and vegetative cover, infiltration, and evapotranspiration, relief, slope and density of drainage channels;

(B) Factors contributing to the function of storing water, such as permeability, infiltration, porosity, depth and direction of ground water flow, and water holding capacity;

(C) Factors contributing to the function of regulating the flow of surface and ground water, such as the longitudinal profile and slope of the valley and channels, the sinuosity and cross-sections of the channels, interchange of water between streams and associated alluvial and bedrock aquifers, and rates and amount of water supplied by these aquifers; and

(D) Factors contributing to water availability, such as the presence of flood plains and terraces suitable for agricultural activities.

* * * * *

[FR Doc. 88–17469 Filed 8–2–88; 8:45 am]
BILLING CODE 4310-05-M

federal register

Wednesday
August 3, 1988

Part III

Environmental Protection Agency

40 CFR Part 23

Designation of Office To Receive Petitions for Review of Agency Actions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 23

[OGL-FRL-3399-5]

Designation of Office To Receive Petitions for Review of Agency Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Congress recently adopted Pub. L. 100-236, 101 Stat. 1731, amending 28 U.S.C. 2112 (a section of the United States Judicial Code). The statute requires each federal agency to receive a copy of each petition for review of a final agency action filed in the United States Courts of Appeals. That officer is then required to notify the United States Judicial Panel on Multidistrict Litigation of any petitions received within ten days of the effective date of the action. This rule designates the General Counsel as the appropriate officer for the Environmental Protection Agency.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Randolph Hill, Office of General Counsel (LE-132W), U.S. EPA, 401 M Street SW., Washington, DC 20460. Phone: (202) 382-7700.

SUPPLEMENTARY INFORMATION:

I. Introduction

Congress recently adopted Pub. L. 100-236, 101 Stat. 1731, amending 28 U.S.C. 2112 (a section of the United States Judicial Code). The amendment states that when a federal agency receives two or more petitions filed in two or more United States Courts of Appeals challenging a final agency action within ten days of the effective date of that action, the U.S. Judicial Panel on Multidistrict Litigation will pick at random one of the Circuit Courts in which a petition was filed, and consolidate all other appeals in the chosen court.

The amendment is designed to eliminate the so-called "race to the courthouse", which occurs when different parties attempt to file a challenge to an administrative action in one Court of Appeals before the other parties can file in a different court.

Under the amended section 2112(a)(2), each federal agency is required to designate, by rule or regulation, the office and officer to receive a copy of each petition filed. That officer is then required to notify the Judicial Panel of any petitions received within the ten day period, in accordance with Rules 20-25 of the Panel, which were adopted by the Panel following passage of the law. This rule designates the General Counsel as the appropriate officer for the Environmental Protection Agency.

II. Background of Public Law 100-236

Certain actions taken by federal agencies are subject to direct judicial review in the United States Courts of Appeals. Some federal statutes specify a particular Circuit Court where venue shall lie for a challenge to actions taken under that statute. For instance, the Clean Air Act requires that challenges to national rules be filed in the U.S. Court of Appeals for the District of Columbia (42 U.S.C. 7407(b)(1)). Other federal statutes either do not specify where challenges may be filed, or allow judicial review of agency actions in any appropriate Court of Appeals. The Clean Water Act (CWA) allows direct judicial review of certain EPA actions in the Circuit Court where the petitioner resides or transacts business (33 U.S.C. 1369(b)(1)).

Where judicial review of agency actions is not limited to a single court, challenges to agency action may be filed by several petitioners in several different Courts of Appeals. Prior to the passage of Pub. L. 100-236, these multiple petitions for review would be transferred and consolidated in the court where the first petition was filed. The "first-to-file" rule, adopted in 1958, was designed to make the selection of the court of review as fair as possible.[1] However, the rule created an unintended problem. Many petitioners appear to believe that certain Circuits will be more sympathetic to their arguments on review than other Circuits. Thus, the first-to-file rule created an incentive for them to "race" competing petitioners "to the courthouse" and file in their preferred Circuit Court as soon as the action of the agency became final.

Races to the courthouse have become both highly sophisticated and extremely amusing processes. As documented in EPA's first proposal for eliminating courthouse races under the CWA (44 FR 32006), potential petitioners often go to great lengths to ensure that they file first. Messengers may be placed at the agency to wait for notice of an action to be issued. They may be connected by phone chains, walkie-talkie chains, or people chains to other messengers who wait at the office of the court clerk, petitions for review in hand. Since a petition for review need only state who is challenging the agency action and what action is being challenged (i.e., no reasons for the challenge need be enumerated in the petition), the petition for review can be prepared well in advance. Phone chains allow a petition for review to be filed within minutes or even seconds of when the notice of final agency action is issued. The spectacle of a courthouse race, in addition to being unseemly and somewhat unprofessional, is highly disruptive to both the agency and the U.S. Courts. Furthermore, disputes over who "won" the race have led to time-consuming litigation. In the case of one challenge to an action of the Federal Energy Regulatory Commission, an Administrative Law Judge ordered a "reenactment" of the race to determine how long it would actually have taken the petitioners to file after notice of the action was issued (see 44 FR 32010). In that same race, the ALJ also investigated how accurately the time stamps at the Fifth and D.C. Circuit Courts were calibrated to determine whether the earlier-stamped petition had actually been filed later!

In 1980, the Administrative Conference of the United States recommended statutory changes to eliminate races to the courthouse (1 CFR 305.80-5). Its recommendation, to provide for a random selection of the court of review from among those courts where petitions for review have been filed, was embodied in bills introduced in the 97th, 98th, 99th, and most recently, 100th Congresses (H.R. 1162; S. 1128). H.R. 1162 was the first of these proposals to pass both houses. The President signed the bill on January 8, 1988.

Congress had already eliminated races to the courthouse under the CWA. The Water Quality Act of 1987 (Pub. L. 100-4, passed February 4, 1987) included an amendment to the judicial review provisions of the CWA, which authorized a random selection of the reviewing court if EPA received notice that multiple petitions for review of an agency action under the CWA were filed within 30 days of the date EPA received notice of the first such petition (33 U.S.C. 1369(b)(3)). Pub. L. 100-236 repealed this provision under the CWA in favor of the generic provision in 28 U.S.C. 2112(a).

III. Past EPA Rulemakings

Prior to the amendments to the CWA, and later, the Judicial Code, EPA had already taken steps to minimize the effects of races to the courthouse. In 1979, EPA responded to requests from concerned parties and proposed a rule which specified the exact moment when

[1] Prior to 1958, if multiple petitions were filed challenging an Agency order, the Agency had the discretion to select in which Court of Appeals the petitions would be heard.

an action under the CWA would become "final" for purposes of judicial review (44 FR 32006). This rule was finalized on April 17, 1980 (45 FR 26046). In 1985, EPA extended the rule to cover all EPA-administered statutes under which the filing of petitions for review in multiple courts could occur (50 FR 7268).[2]

Under the 1985 rule, most final EPA actions reviewable in the Courts of Appeals were deemed to be "final" at 1:00 p.m. eastern time fourteen days after the date of publication in the Federal Register, or fourteen days after the date of signature for unpublished documents (40 CFR 23.2–23.10). This rule did not eliminate races to the courthouse; rather, it merely specified precisely when the starting gun would be fired. The rule eliminated phone chains, since no one had to be stationed at EPA to wait for a decision to be issued. Racing parties would merely wait at the courthouses of choice on the appropriate day, and hand their petitions to the appropriate clerk for time-stamping on or after 1:00 p.m. In other words, the 1980 and 1985 rules guaranteed that all races would end in a tie, but with minimal disruption for either the agency or the Courts of Appeals. The 1980 and 1985 rules also helped to ensure that all interested parties could compete in a courthouse race on a fair and equal basis, since no party could win the race merely by knowing of an imminent agency action before the others.

IV. Today's Rule

Today's rule adds a new § 23.12 to Part 23. Section 23.12 designates the General Counsel of EPA as the appropriate officer to receive petitions for review of agency actions, and lists the address where these petitions should be sent. The General Counsel has been designated as the appropriate officer because the Office of General Counsel is responsible for representing EPA in litigation against the agency, including Circuit Court review of agency action. Staff in the Office of General Counsel will track the submission of petitions for review, and notify the Judicial Panel on Multidistrict Litigation as appropriate.

Under Pub. L. 100–236, only those petitions received by the agency within ten days of the date when an agency action becomes final are eligible for consideration in the random selection process.[3] Any other petitions received after the ten day period will be consolidated in the Court of Appeals selected by the Judicial Panel. The rule therefore specifies that all copies of filed petitions shall be delivered by personal service or by certified mail, return receipt requested. Use of either of these two methods will allow the General Counsel to ascertain the day on which the petition was received at the agency and thus determine whether it falls within the ten-day period.

The requirements of today's rule are not designed to alter or conflict with Rule 15(c) of the Federal Rules of Appellate Procedure. Rule 15(c) requires a petitioner for judicial review of agency action, *inter alia*, to furnish the clerk of the Court of Appeals with a copy of the petition or application for each respondent agency. Under normal practice, the clerk then sends that copy to the agency to formally notify it of the pending challenge. However, under the new 28 U.S.C. 2112(a)(1), "[i]f within ten days after issuance of the order, the agency * * * receives, *from the person instituting the proceedings*, the petition for review with respect to proceedings in at least two courts of appeals, the agency * * * shall [notify the Multidistrict Panel]." (Emphasis added). EPA reads the new statute as requiring the agency to notify the Judicial Panel only of petitions received by the agency from the petitioner. Thus, the new law places the burden on the petitioner to send an additional copy of the petition for review directly to the agency, notwithstanding the requirements of Rule 15(c), if the petitioner desires the Circuit in which he filed to be part of the random selection process.

Today's rule also does not in any way modify or change the sections of Part 23 included in EPA's 1985 rule. In other words, agency actions covered under these sections will continue to be deemed "final" for purposes of judicial review (and the ten-day period for petitions for review to enter the random selection process will begin) at 1:00 p.m. fourteen days after the date of publication or date of signature. EPA sees no reason to repeal the 1985 rule in light of the statutory amendment, given that the rule will still ensure fairness for all interested parties.

V. Final Agency Action and Effective Date

This rule constitutes final Agency action. EPA has determined that this rule does not necessitate notice and comment under the Administrative Procedure Act, 5 U.S.C. 553. This rule is issued in compliance with a statutory requirement to designate an officer to receive copies of petitions for review of Agency action. This rule is a non-discretionary action on the part of the Agency. Furthermore, the rule does not affect any substantive right of the public, and relates solely to the agency's internal practice and procedure. As such, the Agency believes that public comment is unnecessary.

In addition, under section 3 of Pub. L. 100–236, the new procedure for resolving multiple appeals of agency action became effective 180 days after enactment of the law, *i.e.*, July 6, 1988. Thus, challenges to final agency actions are already subject to the new law's provisions. Therefore, the Agency believes that good cause exists for making this rule immediately effective.

VI. Regulatory Impact

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether this regulation constitutes a "major rule", requiring a regulatory impact analysis. This rule requires that any person challenging Agency action send one additional copy of the petition to EPA if they wish the court in which they filed to be eligible in the random selection. It imposes no other requirements. Thus, the rule meets none of the criteria of a "major rule" under E.O. 12291. This rule has been submitted to the Office of Management and Budget for review.

B. Paperwork Reduction Act

The requirements of this rule do not constitute an "information collection activity" within the meaning of the Paperwork Reduction Act. Thus, an Information Collection Request for this rule is unnecessary and was not prepared.

C. Regulatory Flexibility Act

The requirements of this rule are extremely minor. Any entity, whether large or small, who is already challenging an Agency action in the Court of Appeals will be burdened only with the cost of a single certified letter. Thus, I certify that this rule will not have a significant impact on a substantial number of small entities.

---

[2] The 1980 "race to the courthouse" rule for the Clean Water Act was codified in 40 CFR Part 100. The 1985 rule removed Part 100, and codified the "race to the courthouse" rules for all EPA-administered statutes in a new Part 23.

[3] If only one petition for review (including multiple petitions filed within a single Circuit) is received by the agency within ten days of the effective date of the order, the case will be heard in that Circuit. Any other petitions received after the ten day period will be consolidated in that Circuit. If no petition is received by the agency within the first ten days, the case will be heard in the Circuit where the first petition is filed. 28 U.S.C. 2112(a).

List of Subjects in 40 CFR Part 23

Judicial review, Races to the Courthouse.

Dated: July 27, 1988.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, Title 40 of the Code of Federal Regulations, Chapter I, is amended as follows:

PART 23—JUDICIAL REVIEW UNDER EPA-ADMINISTERED STATUTES

1. The authority citation for Part 23 is revised to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1361(a), 1369(b); Clean Air Act, 42 U.S.C. 7601(a)(1), 7607(b); Resource, Conservation and Recovery Act, 42 U.S.C. 6912(a), 6976; Toxic Substances Control Act, 15 U.S.C. 2618; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136n(b), 136w(a); Safe Drinking Water Act, 42 U.S.C. 300j–7(a)(2), 300j–9(a); Atomic Energy Act, 42 U.S.C. 2201, 2239; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 371(a), 346a, 348; 28 U.S.C. 2112(a), 2343, 2344.

2. Section 23.1 is amended by adding paragraph (c) to read as follows:

§ 23.1 Definitions.

* * * * *

(c) "General Counsel" means the General Counsel of EPA or any official exercising authority delegated by the General Counsel.

3. Section 23.12 is added to read as follows:

§ 23.12 Filing notice of judicial review.

(a) For the purposes of 28 U.S.C. 2112(a), a copy of any petition filed in any United States Court of Appeals challenging a final action of the Administrator shall be sent by certified mail, return receipt requested, or by personal delivery to the General Counsel. The petition copy shall be time-stamped by the Clerk of the Court when the original is filed with the Court. The petition should be addressed to: Correspondence Control Unit, Office of General Counsel (LE–130), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

(b) If the General Counsel receives two or more petitions filed in two or more United States Courts of Appeals for review of any Agency action within ten days of the effective date of that action for purposes of judicial review (as specified under §§ 23.2 through 23.10 of this part), the General Counsel will notify the United States Judicial Panel of Multidistrict Litigation of any petitions that were received within the ten day period, in accordance with the applicable rules of the Panel.

(c) For purposes of determining whether a petition for review has been received within the ten day period under paragraph (b) of this section, the petition shall be considered received on the date of service, if served personally. If service is accomplished by mail, the date of receipt shall be considered to be the date noted on the return receipt card.

[FR Doc. 88–17482 Filed 8–2–88; 8:45 am]

BILLING CODE 6560–50–M

Reader Aids

Federal Register

Vol. 53, No. 149

Wednesday, August 3, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

28855-28996.....1
28997-29218.....2
29219-29322.....3

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandum of
July 21, 1988
(correction).....28938
Proclamations:
5843.....29219

5 CFR

890.....28997
Proposed Rules:
831.....29057
841.....29057

7 CFR

210.....29144
725.....29221
981.....29222
1446.....28997
Proposed Rules:
1408.....29307

12 CFR

227.....29223, 29225

14 CFR

39...28855, 28856, 28858-28860, 28999
71.....28861, 28862
75.....28862
97.....29000
Proposed Rules:
Ch. I.....28888
21.....28888
23.....28888
71.....28889

15 CFR

371.....28862
375.....28864
385.....28862
399.....28864

16 CFR

13.....29226

17 CFR

211.....29226
231.....29226
241.....29226
271.....29226
400.....28978
402.....28978
403.....28978
404.....28978
450.....28978

18 CFR

157.....29002

19 CFR

113.....29228
122.....29228
178.....29228

20 CFR

404.....29011
416.....29011

21 CFR

74.....29024
81.....29024
82.....29024
1308.....29232

23 CFR

658.....28870

24 CFR

201.....28871
203.....28871
234.....28871
511.....28990

28 CFR

2.....29233

29 CFR

1926.....29116

30 CFR

Proposed Rules:
701.....29310
785.....29310

32 CFR

199.....28873

33 CFR

110.....29032
117.....28883, 29032, 29034
Proposed Rules:
165.....28890
166.....29058

36 CFR

Proposed Rules:
7.....28891

38 CFR

21.....28883

40 CFR

23.....29320
52.....28884
166.....29037
168.....29037
261.....29038
761.....29114
Proposed Rules:
35.....29194

52.....29236-29242
142.....29194
180.....29244
248.....29166
261.....28892, 29058, 29067

41 CFR

101-7.....29045
101-26.....29234
101-40.....29046
201-11.....29051
201-30.....29051
201-31.....29051
201-32.....29051

Proposed Rules:

101-1.....28895
105-1.....28896

44 CFR

64.....29053

Proposed Rules:

67.....28896, 28897

46 CFR

30.....28970
98.....28970
151.....28970
153.....28970

47 CFR

0.....29053
1.....28940
64.....29053
73.....29056
87.....28940

48 CFR

505.....28885
514.....28885
525.....28885

49 CFR

Proposed Rules:

24.....28995
1152.....29245

50 CFR

215.....28886
661.....29235

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 29, 1988